

**CITY OF UNION, KENTUCKY
REGULAR BUSINESS MEETING at 7:00 p.m.
MINUTES
Monday, October 4, 2010**

CALL TO ORDER: Regular Business Meeting

Mayor Don Kirby called to order the Regular Business Meeting for the Union City Commission on Monday, October 4, 2010 at 7:08 p.m.

Present: Mayor Don Kirby, City Commissioners John Adams, Todd Sayers, John Mefford and Commissioner Bob Kelly Also, City Engineer Barry Burke (FOPPE Technical Group), City Clerk/Treasurer Kathy Porter, City Attorney Greg Voss were in attendance. Nine (9) citizens signed the attendance sheet.

MINUTES: (All City Commissioners were provided a copy prior to tonight's meeting)

Commissioner Adams moved to accept the REGULAR BUSINESS MEETING MINUTES of Tuesday, September 7, and the motion was seconded by Commissioner Sayers. **Motion carried.**

TREASURER'S REPORT: Commissioner Mefford moved to accept the Treasurer's Report as of August 31, 2010 as presented. Commissioner Kelly seconded the motion. **Motion carried.**

UNION CARES PROGRAM: October – Vineyard Food Pantry.

PLANNING AND ZONING REPORT: Mr. Jim Longano had no report for the City of Union this month.

CITY ENGINEER REPORT: Mr. Burke referenced his detailed City Engineering Report totaling 18 Items. Regarding Item #1, the sanitary sewer system is 99.5 percent complete for Phase C; and about 95% complete for Phases A&B.

Within Phase C, there are two (2) tap-in violations, Mr. Dwelly and Mr. Mathis still have not yet been tapped-in to the new public sewer. Attorney Voss is aware of this situation.

Regarding Item #1 (a) (5) Mr. Isler at 10077 Russwill Drive. Mr. Isler advised that the contractor destroyed a property surveyor's pin. A professional land survey was to be completed and the estimated cost is \$600. Mayor Kirby agreed to pass 100% of the cost onto the contractor. Mr. Burke indicated he will recommend that \$600 be deducted from a future Invoice or from the Retainage held back.

Regarding Phase A&B, there are three (3) outstanding tap-in violations, Mr. Long, DECA and Mr. Scott May have not yet tapped in. Mr., Burke has advised the DECA owner, subject of a new potential lessee for the property.

Regarding Item #1 (b) (2), the remaining alternate sewer line on property owned by Volpenhein at 10033 Old Union Road, was previously approved by SD1 for construction. Mr. Burke and Attorney Voss have tried to encourage the contractor to finish. G&T was advised on 08/03/10 to proceed, subject to shop drawing approval for the special manhole made on 08/18/10. For some reason, there is a delay by the contractor. This sewer, after completion, also includes the release of a significant amount of Bond money held by the insurance company.

Regarding Sub item (c) on page 3, the storm water issue along the south side of SR536 fronting the City Building property, the highway department started some existing pipe removal, but later moved off-site, without a call back or response. Mr. Burke admitted fault for not following this up quickly; and, stated that the highway department now needs the city to file an encroachment permit deemed to be a commercial entrance by the KYTC. Mr. Burke has filed the appropriate paperwork application. The policy has changed over the years and the highway department does not fund or repair the piping for entrances to commercial properties. The KYTC has advised that that they would excavate new side ditching including a Mary Noe culvert to transport all storm water further east to an existing system across the roadway Mr. Burke argued with the KYTC that the city is not a commercial property, but he stated he lost that argument. The engineer's estimate for the work to construct 15" drainage pipe, certain headwalls and restoration for the entrance drive to the City Building is approximately \$3,750. Mr. Burke recommends that when the permit is obtained that the city accept the lowest

bid from several bidders as long as it is within the general limits of the engineer's estimate. Mayor Kirby asked Mr. Burke to send him an email with the quotes. Mr. Kirby asked Mr. Burke if this problem related to the

**UNION CITY COMMISSION
MINUTES – Monday, October 4, 2010
PAGE 2**

City Building flooding. Mr. Burke advised that the entrance piping and side ditching did not relate to the City Building; but, to Mr. Schrage's property across Mt. Zion Road when excessive water crosses the roadway. Mayor Kirby advised that as long as these costs generally stay within reasonable limits, then we should be able to proceed with the repair.

Regarding Sub item (d), on page 4, the SD1 sewerage billing statements for the KIA Loan reimbursement, Mr. Burke stated the city should follow-up with previous contacts with SD1 to be reimbursed the surcharges/assessments that SD1 has collected from the new benefited users. These monies will be used to pay off the KIA Loan. Regarding Sub item (e), Mr. Burke also advised that certain promissory notes for a few Capacity Connection Fees, paid by the city; and, omitted for Year 2009 should be followed-up during the Year 2010 property taxes.

Regarding Hempsteade Drive Improvements under Item #2, the concrete & patching repairs along Lakeway, Lakepointe, and Kingston Courts have been completed for a total cost of \$13,165 without a public bid. Further input from residents Mr. Kreft and Mr. Nordloh was considered regarding the need to seal the remaining unsealed joints on these streets.

Paul Michels has submitted a Quote for \$2,975. to seal all of these unsealed joints along these streets before winter sets in. Mayor Kirby agreed to proceed with the Michels' Quote to complete the project.

Regarding Item #2 (d) Cedarwood Drive, the asphalt resurfacing and joint seal, handicapped ramps, the side drains, and restoration has been completed. They are not yet finished with the two (2) speed humps; Mr. Burke will contact Pete Michels to get an estimated completion date for the speed humps and the paint striping.

Regarding Item #2(d) Cedarwood Drive, the resurfacing and joint seal, the side drains, and restoration has been completed. They are not finished with the two speed humps, Mr. Burke will speak with Pete Michels to get an estimated completion date for the speed humps and the striping.

Regarding Item #3, Subdivision speeding complaints/speed studies/traffic calming. Under subitem (b), Mr. Burke advised that there have been several spot speed studies that have been completed; but, not yet acted upon. for construction. These include the streets named Arbor Springs Blvd, Braxton Drive and Indian Hill Drive. The 85th percentile speeds for these streets are in the range of 33-34 MPH, or about 8 MPH over the ITE standard of 25 MPH, generating the need for a traffic control device. Recently Mr. Burke received another request to look at a street pavement failure; and a speed study along Pembroke Drive. Mr. Burke observed two (2) asphalt base failures; and, completed spot speed studies on September 15&16, 2010. The speed data was taken during the p.m. & a.m. peak hours For the peak hour between 5:05 p.m. to 6:05 p.m., Mr. Burke counted 129 cars, seventy-five (75) going southbound and fifty-four (54) going northbound. The posted speed limit is twenty (20) miles per hour. While Mr. Burke's recommendation is to repair two (2) street pavement failures for \$3,960, quoted by Len Riegler Paving, the lowest of two (2) contractors, construction of an asphalt speed hump between driveways opposite addresses 10248 & 10249 including proper warning signage is a borderline issue, These studies concluded that the northbound traffic on a descending grade was slightly over the ITE standard of 25MPH; and, the southbound traffic was under the ITE standard. While the southbound traffic data on an ascending grade could have been slowed by the pavement failures, these studies are still borderline or significantly less than the previous three (3) studies mentioned earlier

Ms. Carol Harvey at 10249 Pembroke Drive spoke that there is a need for something to slow the traffic down. People are driving through Pembroke to avoid speed humps on other streets, such as the one (1) on Burleigh Drive. She also said that there has been some vandalism and a lot of street signs have been taken down.

Mr. Kelly asked Mr. Burke if a similar study suggested was performed along Wyndham Drive. Mr. Burke said at this time that study was not performed, based upon the borderline data along Pembroke; and, since several new

home lots in the area were not yet completed. Mr. Kelly suggested we revisit this issue and do another speed study. Mayor Kirby agreed to have Len Riegler perform the pavement repairs for the lowest Quote; and, to revisit this speed study issues in the spring. Mr. Burke will schedule these studies.

Regarding speed limit signage near 10248/10249 Pembroke Drive, Mr. Kelly will call the Boone County Public Works Sign Division to review, post new and/or replace the signs that may be necessary or have been taken down along Pembroke Drive.

**UNION CITY COMMISSION
MINUTES – Monday, October 4, 2010
PAGE 3**

Mr. Burke asked how the Commission would like him to proceed with speed humps along Braxton, Arbor Springs, and Indian Hill. Mayor Kirby stated that since these streets were about 8 MPH over the standard as compared to Pembroke Drive, asked Mr. Burke to get estimates on proceeding with the placement of the speed humps on these three (3) streets. Mr. Burke stated that both Michels and Riegler were doing work in the area, he will contact them for the best costs based upon volume and forward this cost information to Mayor Kirby and Mr. Kelly for action. Mr. Burke was asked about a previous request along Lancashire Drive; and, stated that a preliminary evaluation did not qualify for a more detailed study. which was acknowledged by the city.

Regarding Item #6 (a) the sewer tap-in for the City Building, the \$4,200 quote from Ed Morehead was accepted and the work has been completed. An Invoice for this work is expected.

Regarding Item #6 (b) the sewer tap-in for the Community Building, the \$11,000 quote from Helmer Plumbing was accepted and the work has been completed, except for final restoration which will be completed by A&A Landscaping. The contractor encountered two (2) problems: 1) a limestone rock layer under Old Union Road resolved by flowable fill by the permit issued; and, 2) multiple discharge laterals from the first and second floors of the building. Mayor asked how could this happen? Mr. Burke advised that Helmer made tap-in connections to one (1) then later found another near the on-site sewage chamber to resolve the problem. An Invoice for this work is expected.

Regarding Item #6 (d) the City Building Flooding, an engineered design plan was prepared; and, two (2) qualified contractors have submitted their bids. As a result, the lowest and best bid submitted by Spillman Landscaping for \$3,982.28 was recommended to be accepted. Mayor Kirby said to go ahead and proceed. Discussions with City Clerk Porter indicated that the other problem regarding high earth mounds causing water to enter the building and other landscaping work would be handled by the city's landscaping contractor, A&A Lawn Care.

Regarding Item #13, Mr. Becknell's complaint, Boone County Public Works (BCPW) has repaired a significant street paving sink-hole along Sycamore Drive fronting Mr. Becknell's property. SD1 was called in for some dye testing, which did not reveal any sewer breaks.. Boone County Water District (BCWD) later advised that the problem started with a leaking water main near this location, which was repaired. Costs incurred by BCPW will be forwarded to BCWD for payment at no cost to the city. BCWD has also agreed to restore- Mr. Becknell's front yard with seeding & mulch, weather permitting. Regarding Mr. Becknell's ongoing complaint regarding the Harmony Estates development contiguous to his property, including natural springs, tree lines, setbacks, etc., a copy of the record plat by the surveyor was forwarded to him by mail to help resolve his concerns. .

Regarding Item #14, Ms. Susan Stringer at 10154 Indian Hill Drive, Ms. Stringer is concerned regarding storm water backupages on her private property caused by the recent re-grading work on the Kim Landrum property along Whispering Trails. Mr. Burke stated that both he and Mayor Kirby have responded to Ms. Stringer via emails; and, Mr. Burke advised that in his opinion storm water has never backed up on her property; but, he will observe this issue on-site when another intense rain takes place.

Regarding Item #18 Drainage request, Ms. Gadd, 1527 Mt. Zion Road, was advised to contact the KYTC's Scott Pennington regarding the repair and maintenance of a common residential driveway involving a culvert and side

ditching

PUBLIC WORKS/UNION VISIONING COMMITTEE:

Mr. Kelly spoke about the Union Village Gas Lights.

Eric Erpenbeck the president of Union Village HOA, addressed the commission concerning the facts about the cost of the gas lights. Union Village has twenty-nine gas lights, 8 entrance lights and 21 street lights. Also there are three lights external to the subdivision, one at Scheben Library, one at corner of Braxton and US 42 and one at Cavalry and US 42. Mr. Erpenbeck, feels that the theory of a community paying for street lights, is more intended for a private drive or a city

street that does not go anywhere. The HOA is actively maintaining lights where the maintenance is solely on them. Mayor Kirby asked Mr. Erpenbeck if this was something that the homeowners knew before moving into this neighborhood. Mr. Erpenbeck, says the by-laws within the community do not state anything about the maintenance or

UNION CITY COMMISSION

MINUTES – Monday, October 4, 2010

PAGE 4

operational cost of the gas lights, only that it is a gas light community. Mr. Erpenbeck feels that the developer pays for the streets and streetlights and then the lights would be handed over to the city. The lots would cost more because the installation of the gas lights is more expensive than electric lights, but the residents have already paid for the installation. Mr. Erpenbeck stated that the City of Union decided to not take the street lights. Mayor Kirby, stated that Mr. Erpenbeck's statement was inaccurate. This was a private agreement between the builder and the homeowner's association, Union did not refuse to take the lights, and the city was not even a party to this decision. Mr. Erpenbeck has researched to see if there are any other situations where a subdivision has had to pay for the lights on their streets. Mayor Kirby is going to have Attorney Voss also research for the documentation at the courthouse that will spell out the agreement between the developer and builders. Mr. Erpenbeck stated that no where in the by-laws of the HOA, does it state that the residents are responsible for the gas lights.

Mr. Erpenbeck said that one of the things, that he feels, is the reason the city is hesitant to take the gas lights is that they are expensive. He did a survey of the neighboring communities, and Union Village has fewer lights than communities with electric lights. He noted the Hampshire community which has very similar number of houses, they have thirty (30) lights and Union Village has twenty-one (21). Mr. Erpenbeck mentioned the offer by the city to pay so much per light, he feels this is a generous offer, but still unfair assessment because if the neighborhood had electric lights, they would have more lights. Mr. Erpenbeck mentioned the lights at Whispering Trails, he said they have an unbelievable number of lights per home. He feels that when he is told that it is too expensive for the city to handle the cost of the lights, by what metric is that based on, if it is per fixture, then the determination is unfair because they have significantly less lights, if it is per acre basis, then they are being underpaid. The main thing he would like to point out that this issue is unfair to just say a gas light compared to an electric light is more expensive, then the light will be capped and only to pay for the exact amount of lights that are in the subdivision. He states that if the community had electric light they would have more lights and it would be more expensive for the city. This community has no intermediate lighting, the streets have a light at the beginning of the street and in the cul-de-sac, except for Picket Run that has additional lights.

The next issue that Mr. Erpenbeck addressed is the issue with the maintenance cost for these lights. If anything happens to the poles in the subdivision, then they will be held responsible for the repairs, as to if an electric light would be hit then the city would cover the cost of the repairs. Mayor Kirby, reminded him that this issue is not because they are using different fuel to light the posts, but because they have a private agreement between Union Village and Duke Energy. The rest of the lights in the city are under a public agreement. That was how the neighborhood and the homeowners association were set up.

Mayor Kirby asked Commissioner Kelly how many lights the city is currently paying for. Commissioner Kelly

stated that originally the city was paying for twenty-nine (29) lights, and is currently paying for twenty-one (21). Mayor Kirby asked why the number has gone down from twenty-nine to twenty-one. Commissioner Kelly stated the entrance lights have now been turned off. Mr. Erpenbeck, stated that the intention he had that when the city agreed to pay for the lights, that it was up to the HOA to decide how to distribute the money in order to pay for the street lights. Mayor Kirby said that was an assumption on his part, because from the cities perspective, they were paying for certain number of lights and you broke the spirit of that by turning some of the lights off and save money and still receive the same amount from the city. Mr. Erpenbeck said they spent \$2,000.00 in order to turn those lights off and make them electric. This decision was made solely by the HOA, and was not forwarded to the city. The city is contributing money out of city fund for private lights, and did that because the HOA had come forward and asked for help. Then they turned the lights off but still receiving the same amount of money as if the lights were still on, Mr. Erpenbeck agreed that this was a true statement.

Mayor Kirby asked Commissioner Sayers about the current requests for help in paying for the gas lights. Commissioner Sayers stated that the biggest change would probably be the economic times.

Mr. Erpenbeck stated that the HOA is trouble, because of the uniqueness of this agreement with Duke Energy. This agreement was established over fifteen years ago, many of the original homeowners no longer live there and the new

**UNION CITY COMMISSION
MINUTES – Monday, October 4, 2010
PAGE 5**

residents were under the impression that the city was paying for the gas lights.

Mayor Kirby asked what the yearly cost to the HOA for the gas lights? Mr. Erpenbeck said the yearly cost is \$7,700.00. The cost to replace the lights for electric lights is estimated at \$80,000.00. Duke Energy will allow them to pay this off over a period of ten years.

Attorney Voss mentioned having maybe a special assessment over a twenty-year period in conjunction with the city.

Mayor Kirby is going to look for the original agreement and look to see what the cost to convert the lights. The city would take over the lights as electric.

Mr. Erpenbeck asked why the lights had to be electric. Mayor Kirby said that we have always chosen to go with electric. The situation has nothing to do with the fuel type; it has to do with the agreement.

Mayor Kirby suggested checking into the ownership of the lights, to see if the HOA owns the lights or if they are leasing them from Duke.

This will be revisited again in the November meeting and the city will continue to pay the amount that they agreed to pay.

Mr. Erpenbeck asked why he couldn't choose to turn the lights on and off in order to save the HOA money. Attorney Voss told him that these are private lights and for the city to pay from public funds the public has to have benefit. He said we can't pay for lights that are not on.

Someone asked if the city pays for the lights in the city limits. Mayor Kirby said that we do pay for the lights in the city.

Mr. Kelly mentioned five dead trees on Old Union Road. There are four dead trees that are on the city owned right of way. The other is on the Racon Development property and we have sent a letter to them to see if they would have it removed. These trees need to be removed; we have received a quote from Spillman Lawncare and awaiting another quote. Mr. Kelly will keep the commission informed.

Mr. Kelly also mentioned a complaint on Mt. Laurel Way, a foreclosed home had a hornet's nest in the backyard. We had an exterminator come and remove the hornets nest for \$50.00.

Mr. Kelly mentioned the Community Building Roof; the roof has storm damage and will possibly file a claim. Karen is working with roofing companies to get quotes.

Mr. Kelly has spoke to Spillman Lawncare concerning the snow removal for the upcoming winter. Mr. Adams asked where the salt is being stored. Mr. Kelly said it is on the hill behind the Community Building on blocks.

CITY EVENTS COORDINATOR:

Karen was not in attendance at this meeting. Mayor Kirby highlighted a couple key points.

The inside of the bays at the Community Building was painted in September.

On October 23, 2010, the Unions Fall of All will take place at the Community Building from 4:00 p.m. to 8:00 p.m.

Flyers to be e-mailed to residents

Union will once again be selling the Perfect North Vouchers. This was successful last year and we hope that it will be successful again.

UNION CITY COMMISSION

MINUTES – Monday, October 4, 2010

PAGE 6

The Union Community Theater is holding auditions for “Farewell to Rosegate”. This is a play about a local Boone County murder that took place in 1943. The play will take place December 17 & 18 in the Ryle High School Auditorium.

CITIZENS WISHING TO SPEAK:

Mr. Erpenbeck asked about street signs that are missing in the subdivision. These are custom street signs and the responsibility of the Homeowners Association. Mr. Kelly asked Mr. Erpenbeck to e-mail him the details. Mayor Kirby asked for Attorney Voss to check into this as well.

A resident asked about the meeting minutes on the website. Mayor Kirby apologized and will upload the correct minutes within the next week.

OLD BUSINESS:

None presented.

NEW BUSINESS:

First Reading of ORDINANCE NO. 2010-003 – **AN ORDINANCE FO THE CITY OF UNION, KENTUCKY ESTABLISHING REGULATIONS FOR UNINVITED SOLICITATIONS OF CONTRIBUTIONS, SALES OF GOODS AND SERVICES, AND PLEDGES, SUBSCRIPTIONS, ORDERS, AND OFFERS FOR THEM AND ESTABLISHING PENALTIES FOR THE VIOLATIONS THEREOF.**

Mark Meadors who lives in Stoneymeade, he has a concern about vendors dropping brochures on driveways and them sitting on driveways and becoming litter.

Attorney Voss said he will look into this.
Mr. Meadors asked what the difference in dropping brochures and just throwing a cup out of a car window.
Attorney Voss said litter has not purpose.
Mayor Kirby said that we will look into this issue.

EXECUTIVE SESSION:
NONE

ANNOUNCEMENTS:
Next City Commission Meeting: Monday November 1, 2010 @ 7:00 p.m.

No further business came before the Commission. Commissioner Adams moved to adjourn the meeting at 7:39 p.m.
Commissioner Sayers seconded the motion. **Motion carried.**

Signed this 1st day of November 2010

APPROVED:

ATTEST:

Don Kirby, Mayor

Kathy Porter, City Clerk/Treasurer