

**REGULAR BUSINESS MEETING MINUTES OF THE UNION CITY COMMISSION**  
**February 7, 2011**  
**7:00 PM**

**LOCATION:** Warren S. Moore Union City Building, 1843 Mt. Zion Road, Union, KY 41091

**CALL TO ORDER:** Mayor Kirby called the meeting to order at 7:00 PM.

**ROLL CALL:** The following members were present:

Mayor Don Kirby  
Commissioner Bob Kelly  
Commissioner John Adams  
Commissioner John Mefford  
Commissioner Bryan Miller  
City Engineer Barry Burke  
City Attorney Greg Voss  
City Clerk Kathy Porter  
City Events Coordinator Karen Franxman

**APPROVAL OF MINUTES:**

**All City Commissioners were provided a copy prior to tonight's meeting.**

Commissioner Kelly made a motion to accept the minutes, with two (2) changes, from the January 3, 2011 Commission Meeting and the motion was seconded by Commissioner Mefford. **Motion carried.**

**ADMINISTRATIVE REPORTS:**

**City Clerk/Treasurer Kathy Porter:** Commissioner Adams moved to accept the Treasurer's Report as of January 31, 2011, and Commissioner Miller seconded the motion. **Motion Carried.**

**UNION CARES PROGRAM:** For the months of February and March 2011. The city of Union will be working with the Northern Kentucky Community Action Commission (NKCAC). City Events Coordinator Karen Franxman briefly spoke about the wish list for this organization. The immediate need for the organization is food. Donations can be dropped off at the City Building, or if you have a large donation and cannot get it the City Building, please contact Karen and she will arrange to have the items picked up.

**PLANNING AND ZONING:** Mr. Jim Longano was not present and had no report for the City of Union this month.

**GOALS AND OBJECTIVES OF THE 2010 COMPREHENSIVE PLAN:** Mr. Kevin Costello introduced Mr. Bob Jonas the Project Manager. Mr. Jonas gave the commission a copy of the adopted Goals and Objectives that the planning commission adopted on January 5th. He gave a brief summary of the history and specific issues adopted at five (5) year intervals within Comprehensive Plan. The Kentucky Revised Statute requires the planning commission to have a comprehensive plan in order to have zoning. The comprehensive plan is a twenty-five year horizon document as opposed to the zoning code which is a more immediate than each of its five-year plan updates. The planning process is divided in three (3) stages. The first is preliminary research of data trends. The second is creation of statement of Goals and Objectives, which is where we are at right now. The third is the elements of the chapters which are updated from the goals and objectives. The first plan was introduced in 1980 and has been updated every five (5) years since. In 1995, the updating included the first use of GIS mapping. Mr. Jonas went over the current Goals and Objectives that are up for approval for the 2010 Comprehensive Plan, as amended. Mr. Jonas briefly discussed changes that were made to the plan at five (5) year updates.

Commissioner Miller asked for further explanation on Item #17 of the Goals and Objectives,

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concerning development of mixed use of design to lessen vehicle traffic. Mr. Jonas said that this deals with mixed use of residential and commercial use, basically trying to lessen the amount of driving for individuals. Mr. Costello mentioned the Toebben Project in Hebron.

Commissioner Miller asked Mr. Costello if he knew what percentage of land in Boone County is actually owned by Boone County. Mr. Costello said he did not know, but could find out. The airport is the biggest land owner in Boone County. Mayor Kirby asked Mr. Miller that the concern of the HOA during the public hearing was incorporated into the Goals and Objectives. Commissioner Miller said the concern of the HOAs and its residents was they are taking the property out of the tax base when it is purchased by the county. That is the reason Commissioner Miller was asking this question. Commissioner Miller stated he had read somewhere that the Boone County plan was to own fifty percent (50%) of the land by 2020 or something like that. Mr. Costello stated that this is not in their plans. Mr. Costello stated he will get the numbers of acres of land that Boone County owns for Commissioner Miller. Mayor Kirby stated that the Judge Executives office should have those numbers.

Commissioner Kelly asked what would now be online, more than what was on in the past, as far as public access? Mr. Jonas stated that goal is to get people to the right location, rather than hosting it all in house.

Mr. Costello urged the city to adopt by ordinance the Goals and Objectives for the 2010 Boone County Comprehensive Plan.

**CITY ENGINEER REPORT:** Mr. Burke referenced his detailed City Engineering Report totaling 14 Items. Regarding Item #1 the Sanitary Sewer Systems, the systems are nearly complete. Phase C is 99.3% complete, the only outstanding issues are the tap-in violations, which he is working with Attorney Voss. Mr. Burke mentioned three (3) tap-in violations within Phase C, including Mr. Dwelly at 10109 Russwill Drive, where Attorney Voss is working with Mr. Dwelly's attorney; Mr. Denny Mathis at 1539 Mt. Zion Road, and Mr. Steelman at 10126 Russwill Drive.

Regarding Item #1 (b) (2) under Phase A&B, the last remaining sewer system serving the BP, Ferguson and Volpenhein properties. The record (as-built) drawings have been completed and except for surface restoration, G&T Excavations, Inc. has completed that project. Letters have been sent to the commercial establishments letting them know that they have ninety (90) days to tap-in. Ninety Percent (90%) of the retainage fees has been processed for release to G&T. We are still holding back ten percent (10%) for restoration on this project.

Regarding the tap-in violations for Phase A&B, we still have Mr. Long at 1764 Mt. Zion Road, who Attorney Voss has been working with, Scott May, and TAD Enterprises. All tap-in violation letters have been sent.

Both phases of the sewer project are under budget.

Regarding Item #1 (d) KIA State Fund "C" Loan, city clerk's office has advised, we have received our second installment from SD1 totaling \$12,503.51. This is money that SD1 is collecting for individual sewer assessments and refunding back to us for the loan payoff.

Regarding Item #2, The City Building entrance and culvert pipe, due to inclement weather this project has been delayed. Mr. Burke will be meeting with R.E.B.T. Construction regarding this project.

Regarding Item #7 (a), The Villas at Fowler Creek/Racon Development – Rel. US 42 & Old Union Road. Commissioner Miller and Mr. Burke attended a meeting with Sandy Connley with Duke Energy

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and with the Villas' representative Ms. Noreen Morgan regarding the highway safety entrance lighting issue, on January 24, 2011. Ms. Connley, contrary to an earlier acceptance, now advised that the existing light pole and underground system at the Villas' entrance along US 42, to be used as a closer source of electric for lighting the ground sign cannot be used.

The reason given was that the existing 27-year agreement was linked to the full rate payment schedule for the project. Mr. Burke has evaluated other options previously, which is to either extend underground electric service about 270-300 feet into the project or boring and jacking about 100 feet underneath U.S. 42 to the pole directly across the highway. If boring and jacking under US 42 is chosen, it would cost an estimated \$4,500 to complete with a KYTC permit. Based upon previous city actions, the Villas at Fowlers Creek would have to pay the costs for installation with the city metering and paying for electric usage for this project for increased safety.

Subsequently, the HOA at the Villas at Fowlers Creek also requested to have more lighting at the Royal Oak Lane entrance along Old Union Road, stating that this was also a safety problem. City representatives also spoke with Sandy Connley with Duke about this project as well. There are three (3) existing poles, two (2) of which cannot be used; the remaining pole across the roadway within Boone County is not within the city limits of Union. Mayor Kirby asked why we are not able to tie into the poles that are within the city limits. Mr. Burke stated that the poles are not owned by Duke Energy, they are owned by Cincinnati Bell, and one (1) is too short and the other is too distant from the location. The best lighting solution would be across the roadway to the one (1) that is in Boone County and install a mast arm and drop lens onto Duke Energy's existing pole. The estimate for the installation work may be with a range of between \$800 and \$1,000. The city would then need to enter an agreement to pay the usage which Ms. Connley estimated to be around \$10 - \$15 per month. Mr. Kelly asked if there would be any conflict since the light would not be located within the city limits. Attorney Voss said we would probably have a legal issue paying for a light that is not actually located within the city's corporate limits. Mr. Burke stated that the subject street light would shine onto the entrance within the city limits; but, acknowledged the legal issue from Attorney Voss.

Mr. Burke drafted a letter, at Ms. Morgan's request, to the developer of the Villas at Fowlers Creek, addressing the entrance lighting issues as they relate to traffic engineering safety. This letter details the request and the installation costs of providing these lights that were requested by the residents and/or the HOA. The letter also states the city will only be responsible for the metered electric usage and not any installation contraction costs.

Mayor Kirby asked if the HOA had the new costs of putting in the lights and if they had any feedback. Mr. Burke said that Ms. Morgan was advised of the costs and was going to present them at the next HOA meeting which is planned for March.

Regarding Item #9, the City of Union Landscaping Contract for calendar years 2011-2012. Mr. Burke reviewed the four (4) bid proposals for these services that were received at the bid opening. The four (4) companies that bid were Spillman Lawncare, A&A Lawncare and Landscaping, T.C.P. Contracting Company, and Lawn Systems, Inc. After reviewing all the bids Mr. Burke advised that the company with the actual lowest bid, at \$30,900 was T.C.P. Contracting. However, as specifically noted at the bottom of bid sheets was written as a "per year" basis. Mr. Burke advised T.C.P. Contracting who stated that the "per year" statement on the bid was put there accidentally. The city clerk also advised that TCP did not identify any references, as required by the bid documents. Therefore, based upon these issues, Mr. Burke recommended awarding the bid to the next lowest bidder to Spillman Lawncare at \$36,015.00 for the new two (2) year contract.

Mayor Kirby asked the commission if they had any thoughts concerning the landscaping bids. Mr.

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Kelly asked Attorney Voss if everything was ok that they not award the T.C.P. Contracting the contract because they failed to list the three (3) references that were required. Attorney Voss said that first, the bid had two (2) errors; they put the contract amount out as “per year” and, second the failed to include the references. This validates our refusal of the bid.

Commissioner Miller asked about certain special tasks, or extra work for other jobs that could be added to the contract amount. Mayor Kirby said that we had the areas specifically mapped out; and, if something needs to be completed, that is not on one of those areas they will be handled as extra work. Mr. Burke provided Commissioner Miller a copy of the the bid specs to review. Commissioner Kelly mentioned the trees along the outside of the pavement of Relocated U.S. 42 that required additional care and watering during the last two (2) years. Many of these trees died during the summer drought. Mr. Burke advised that the existing contract only included trees within the center medians; and, for one reason or another the new bid documents did not include the 100 or so trees along the outside lanes within the public right-of-way. Thus, if more care including mulching, waterbags, etc. would be required as city staff advised costing approximately an extra \$2,000-\$3,000 during the last contract, this would be considered extra work. Commissioner Miller asked if the trees died who replaced them. Mr. Burke stated that if the tree was new that the person that installed the tree, if the tree had a warranty, would be responsible. If the tree was not under warranty then we can direct the city’s landscaper to replace the tree and the charge would be as extra work. Mr. Miller asked if we could revise the contract and ask for a re-bid. Mr. Burke said that it is possible, if it is what the commission would like. However, since the last contract expired at the end of last year; and, the spring tasks are approaching, there may be a timing issue. Attorney Voss stated that re-bidding could cause a lot of problems. Mayor Kirby suggested getting quotes on just what maintaining the trees that are not included in the bid would be.

Mr. Costello recommended contacting Chris Stone from the Boone County Arboretum. He will be able to talk about the trees and give some valuable information and also some help with the pruning of the trees. Mayor Kirby suggested we take advantage of Mr. Costello’s contact offer of help.

Commissioner Miller asked if the statues that are in front of the Union Station and Lassing Green, are maintained under the landscaping contract. He noticed that there is rust on the statues and the trees are not maintained. He asked if that would be extra work to get repaired. Mr. Burke said that part of this was extra work. The tree trimming would be included, but the maintenance of the statues would be extra work and not be included.

Mayor Kirby asked if any of the other commission members had any concerns going with the next lowest bid, as recommended, which is Spillman Lawncare. No one spoke against any these concerns. Mayor Kirby asked for a motion to accept the bid. Commissioner Miller at this time asked when the contract would end. Mayor Kirby said that is would end on December 31, 2012. He asked when we would have to have the contract enacted by. Mr. Miller was advised that the beginning of growing/cutting season in the spring was fast approaching . Mayor Kirby said that if Mr. Miller would like to review the specifications, that we could wait until the March meeting to make the motion to approve the contract. Mr. Miller stated that he would like to review the specs before approving.

Regarding Item #10, the Union Resolution regarding the proposed plans for Relocated KY 536 that KYTC requested. Mr. Burke stated that the KYTC advised that this project is at least eight to ten years away. At present, the design plans are nearing completion; but is an unfunded project. Mr. Burke, Commissioner Miller, and Mayor Kirby attended a meeting to review the plans and specific details impacting the city. Based upon that meeting with KYTC staff, a number of issues regarding details were clarified including locations of asphalt multi-use paths, concrete sidewalks, conduit locations and the lighting plan options within the two (2) traffic roundabouts near the Town Center area. Per a KCTC request, Mr. Burke drafted a letter confirming some requested changes that were

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made at the meeting for more input from the attendees for the Mayor to consider an sign for mailing. Mr. Burke also mentioned the KYTC request and any city interest in updating the lighting system between those roundabouts. There are a number of innovative and more attractive lighting systems which could be considered and constructed if the city is willing to pay the extra costs from the conventional lighting canopy arm type systems similar to those systems existing along the interstate systems.

Regarding Item #11 the Annexation Ordinance No. 2010-004, Mr. Burke has prepared and forwarded a deed description based upon the plat map and statutes that was requested by the Office of the Secretary of State to Attorney Voss for final processing.

Regarding Item #12 the surface sink holes – building sewer trench – City Building, Mr. Burke spoke with plumber Ed Morehead; and, as soon as the weather improves he will come back and remedy the problem at no extra charge to the city.

Regarding Item #13 the Union Village Street Lighting Plan. Mr. Eric Erpenbeck, the president of the HOA, addressed the commission. Mr. Erpenbeck said the HOA met to discuss their options. Mr. Erpenbeck said the HOA knows that the city cannot spend money to completely change the gas lighting to electric. The HOA suggested that if they could maybe put an assessment on each parcel then maybe the city could assist the HOA in the financing. Mr. Erpenbeck is going to get an estimate on the cost of the construction and then review it to see how long the assessment could be attached to the parcel. Attorney Voss asked if he wanted the HOA to put the assessment on the parcel, or if he would like the city to put the assessment on the parcel. Mr. Erpenbeck stated that he would like the city to attach the assessment. This plan would very similar or be the same as the assessment attached to owners benefitted for tap-ins for the recent sanitary sewer system. Mayor Kirby asked that if this happens, and the HOA starts saving the money that they had been spending on the gas lighting, would they reduce the fees to the residents benefitted?. Mr. Erpenbeck said that the fees would be reduced by that amount saved. This would help offset the amount that each resident will have to pay for the total assessments.

Mr. Erpenbeck suggested that since some residents do not like the idea of having an assessment on their property that maybe an assessment can be placed on the HOA only and not reduce any dues and pay out of the funds received. Attorney Voss said he would have to research that, he did not think it was possible.

Mayor Kirby asked if the installation and removal of the gas lights would be done by Duke Energy or if a private contractor would be doing it. Mr. Burke said, in limited discussions, Duke Energy would be involved because the secondary gas lines connecting to the main gas system in the street would have to be capped off. A private contractor may also be involved in some of this work not covered by Duke.

Mayor Kirby asked to get a dollar number on the costs and revisit this issue.

**PUBLIC WORKS/UNION VISIONING COMMITTEE:**

Mr. Kelly received a complaint on Cobalt Way, regarding mud deposits. We have an ordinance against mud deposits on city streets. Mr. Kelly met with the resident and the onsite manager from Drees to discuss this issue. The Drees representative said he would work with the resident and clean the street. The resident called back and thanked Mr. Kelly for his help.

Mr. Kelly received a complaint about loose trash in a yard that had been there for over two weeks. We have an ordinance against this as well. We sent the resident a letter. Mr. Kelly received a noise complaint, where it appears someone is living in a truck and running a generator through the night

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disturbing the neighbor. Mr. Kelly is currently working with this issue.

Snow removal is going well. Mr. Kelly received a complaint concerning snow blocking a driveway on Tudor Lane; Mr. Kelly contacted Spillman Lawncare who contacted the resident. Mr. Kelly also received a complaint on Hempstead Drive that the salt was not being put down in a timely manner. The cost for the year is approximately \$200,000., last year we spent approximately \$185,000 for the whole year.

We received a bill from Duke Energy concerning the street lights that were put in at Union Pointe. After review it looks like former Mayor Warren Moore signed something allowing the lights to be billed to the city. Mr. Kelly is working with Attorney Voss and is hoping to meet with Duke Energy and Dr. Wright soon to resolve this issue.

**EVENTS COORDINATOR:**

We have two rentals that are open to the public, the first is Feb. 13<sup>th</sup> St. Timothy's is having a pancake breakfast and the second is April 10<sup>th</sup>, the Gunpowder Creek Acoustic Society will meet from 4 to 7pm.

We have had several requests for other parties that have come in to the office.

We have sold 201 discount vouchers for Perfect North. This has been a success again for the second year.

Event sponsor packets have been sent out and we are starting to get replies. Karen has been invited to speak at the Union Business Association to speak about the sponsorship opportunities.

Ms. Franxman has met with David Whitehouse with Boone County Parks and Recreations and they will be partnering with us for the Union Celebrates America on July 1, 2011.

Ms. Franxman is working on the possibility of having a parade on this date also. More details will come as soon as Ms. Franxman has them.

We will be having four movie nights for the month of June. On June 3 we will be showing "Mega Mind", on June 10<sup>th</sup> we will show "Cats & Dogs", on June 17<sup>th</sup> we will show "How to Train Your Dragon" and on June 24<sup>th</sup> "Yogi Bear".

The next scheduled event is Saturday, April 16<sup>th</sup>, which is the 2<sup>nd</sup> pancake Breakfast and Easter Egg Hunt. Last year we had about one thousand (1,000) eggs, this year we will have around three thousand (3,000).

The volunteer committee next scheduled meeting is Wednesday, February 9<sup>th</sup> at the Union Community Building in Porter Hall, at 6:30 pm. The meeting is open to the public.

The Adopt-A-Unit, will be meeting on Wednesday, March 2nd at 6:30 pm. They will be discussing the plans for the July 1<sup>st</sup> visit from the unit members. This will be the last meeting where we will be sending packages to the troops.

**TECHNICAL DESIGN REVIEW:** Commissioner Adams met with the IGA Express representatives and they have agreed to the conditions that the commission spoke about previously. Mr. Adams asked Attorney Voss if we need to have an ordinance that deals with the signage. And we do not need an ordinance.

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Mayor Kirby asked about the plan to start construction. The plan is to start this spring once the site details are finished.

**NEW BUSINESS:**

- **RESOLUTION NO. 2011-004** – A RESOLUTION APPOINTING JOHN ADAMS TO SERVE ON THE BOONE COUNTY PLANNING AND ZONING COMMISSION TECHNICAL DESIGN REVIEW COMMITTEE ON BEHALF OF THE CITY OF UNION, KENTUCKY. Commissioner Mefford moved to approve, Commissioner Miller seconded the motion. **Motion Carried.**
  
- **RESOLUTION NO. 2011-005** – A RESOLUTION APPOINTING ALWAYS AND FOREVER WEDDING SERVICE, LLC TO THE POSITION OF EVENTS COORDINATOR FOR THE CITY OF UNION, KENTUCKY. Commissioner Kelly moved to approve, Commissioner Adams seconded the motion. **Motion Carried.**
  
- First reading of **ORDINANCE NO. 2011-001** – AN ORDINANCE ADOPTING AND APPROVING OF THE GOALS AND OBJECTIVES FOR THE 2010 BOONE COUNTY COMPREHENSIVE PLAN AS PART OF THE REVIEW OF THE CURRENT BOONE COUNTY COMPREHENSIVE PLAN APPLICABLE TO THE CITY OF UNION. Commissioner Adams moved to approve and Commissioner Mefford seconded the motion. **Motion Carried.**

Attorney Voss mentioned the litigation that is being pursued on the Dwelly family, for the sanitary sewer project. After last meeting the family countersued the city alleging \$38,000.00 in damages. This has been turned into KLC. Tom Sweeney from KLC will be handling the defense for the counterclaim.

Commissioner Miller mentioned a resident at 10249 Pembroke, where someone planted three trees in a front yard and did not know who it was. The trees were moved from the front yard to a back yard. Mayor Kirby suggested they contact the Drees Company to see if maybe they had placed them.

There have been some complaints about the lack of signage for the speed humps placed last fall along Arbor Springs, Braxton Road and Indian Hill. Drive. Mr. Burke and Commissioner Kelly indicated that Greg Martin with BC Sign Division would be contacted to post the signage.

There are two stakes in front of the Union Village signs that needs to be pulled up. There was a sign there and it was removed, but the stakes have been left.

**ANNOUNCEMENTS:**

NKADD will be hosting a budget workshop on March 2<sup>nd</sup> at 5:00 p.m.  
Next City Commission Meeting: Monday March 7, 2011 @ 7:00 p.m.

No further business came before the Commission. Commissioner Miller moved to adjourn the meeting at 9:05 p.m. Commissioner Kelly seconded the motion. **Motion carried.**

Signed this 7th day of March 2011

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Don Kirby, Mayor

\_\_\_\_\_  
Kathy Porter, City Clerk/Treasurer