

- CITY OF UNION, KENTUCKY
SPECIAL BUSINESS MEETING
MINUTES
Thursday, April 3, 2014

CALL TO ORDER:

Mayor Don Kirby called the Special Business Meeting of the Union City Commission to order at 8:20 pm Thursday, April 3, 2014.

LOCATION: Ryle High School Auditorium, 10379 US 42, Union, KY 41091

ROLL CALL: The following city officials were present:

Mayor – Don Kirby
Commissioner - Deanna Kline
Commissioner - Ken Heil
Commissioner - Donna Fryman
Commissioner - Bryan Miller
City Engineer - Barry Burke, PE PLS
City Clerk/Treasurer - Kathy Porter
City Attorney - Greg Voss, Esq.

Events Coordinator – Karen Franxman was absent

APPROVAL OF MINUTES:

All City Commissioners were provided a copy prior to tonight's meeting Commissioner Kline made a motion to dispense with the reading of the minutes from the March 3rd, 2014 meeting, and the motion was seconded by Commissioner Miller. All voted in Favor. **Motion carried.**

ADMINISTRATIVE REPORTS:

City Clerk/Treasurer Kathy Porter: Commissioner Miller moved to accept the Treasurer's Balance Summary Report as of April 3rd, 2014, and Commissioner Fryman seconded the motion. All voted in favor of the motion. **Motion carried.**

BILLS FOR PAYMENT:

Commissioner Fryman made the motion to pay the bills, as received. Commissioner Kline seconded the motion. All voted in favor. **Motion carried**

DISCUSSION OF ZONE CHANGE REQUEST:

Following the scheduled 6:00 pm Public Hearing on the zone change request, where presenters from both sides of the issue were heard and recorded separately for public record. Commissioner Heil stated that the zoning request only affects 2% of the Union Town Plan. He stated that the Union Town Plan is not bad, but he does not believe that when the Plan was established there was no way the individuals could have planned for the impact that 911 would have on the airline industry which would affect the financial stability of the economy; as well as the stock market crisis which happened in 2008. Commissioner Heil also mentioned the rising cost of gas prices. Commissioner Heil stated he believes the zone change and the Union Town Center can co-exist.

Commissioner Kline stated there has been a lot of talk about the age of the Plan and how old it is, it is 14 years old, and she stated that it is not an old Plan. Commissioner Kline quoted from an article from 2003 which she stated "the plan will develop gradually over the next ten (10) to fifteen (15) years." Thus, the Plan is to be gradual, and the idea that it is not happening fast enough is something she disagrees with. Items within the Plan are happening; subdivisions are being built to support the Plan. The reason why she moved to Union is because of the Boone County Comprehensive Plan and the Union Town Plan. She believes that the city is following the Plan. The commercial (development) might not be here to show for it, but the residential (development) is.

Commissioner Kline agreed that the existing Kroger store may be overcrowded at times, but she has only been unable to find a spot (her favorite spot) to park, one (1) time in her six (6) years of living in Union. Commissioner Kline feels that there are ways to overcome the parking issues.

Commissioner Kline stated the applicant's reasons for justifying the re-zoning based on an economical basis is something she disagrees with. The economics within the city of Union have not changed. The economics of Kroger not being able to perhaps make more money from having a larger store possibly has. She has also heard that the city would gain tax revenue from the store. She stated the city does not have an income tax and the property tax gained would not be significant.

Commissioner Kline feels if the city wants more Commercial-Two (C-2) zoning, then they should have a plan as to where it should go and not build it one (1) parcel at a time. In her opinion, this is spot zoning and spot zoning may be illegal. Commissioner Kline also feels that if people just want to add commercial development, then that is not why they chose to move into the City of Union. Commissioner Kline stated she would rather the city be a bedroom community with no further commercial development than to have US 42 re-zoned for commercial property.

Mayor Kirby stated that in taking a look at this issue he can see both sides. He stated that everyone he had talked to that opposes the zone change would say a new Kroger Marketplace would be nice, and is needed; but, not there because of the current zoning. He stated that he had been Mayor for almost twelve (12) years and he has seen the lack of progress of the Union Town Center due to the economic downturn and the delay in roadway projects. Mayor Kirby stated that he knows there is a tendency to want to push forward and see things happen, but this is a difficult decision. However, Mayor Kirby stated that if the city chose to allow the zone change for Kroger, if another company (or developer) came in and asked to have another zone change, will the city, from a legal standpoint, be able to say yes to one and no to the other?

Commissioner Fryman stated that the city needs to act upon the most responsible thing for the community. Commissioner Fryman stated she would like to hear Attorney Voss' legal opinion on the zoning change before she votes.

Commissioner Miller stated he truly understands the impact of the decision that the commission has to make and tried to look at it objectively from both sides. He stated the city of Union has been presented with an opportunity that can't be achieved without a balance of business (commercial) and its neighborhoods (residential). If we keep turning businesses away in Union, we could also be turning away a top developer for the Union Town Center. Commissioner Miller stated it has been fourteen (14) years since the original Union Town Plan was approved. Commissioner Miller stated he believes the residents of the city of Union and surrounding communities should have an up-to-date place to purchase necessities within their community.

In response to legal questions, Attorney Voss stated that as to the legal issues, this is not a Kroger issue versus anything else issue. This is strictly a zone change. It has been pointed out that the zone change would also have to modify the current Comprehensive Plan; and, it is true that the Union Town Plan is included within the Comprehensive Plan. As Attorney Voss stated the applicant has brought the request to the city under the KRS statutes and the city would have to make and record a finding that there have been major changes of an economical, physical, and social nature that were not anticipated in the adopted comprehensive plan that have substantially altered the basic character of the area. Regarding the issue of spot zoning, Attorney Voss stated that if the zone change was challenged it would be a court decision, but he advised the city commission, if they chose to allow the zone change it may be used to set a precedent. The optimal way to settle this would be a thorough review of the Plans. Attorney Voss stated that if the city chose to adopt this Ordinance, it could be attacked through the spot zoning issue, or the lack of support for certain facts of finding.

Commissioner Fryman asked what would happen if they chose to approve the zone change for Kroger then Target came into the city and re-applied for a zone change and the city denied it based on the fact it does not provide necessities. Attorney Voss stated it could be challenged. It would be a case-by-case basis. Commissioner Fryman asked if the commission can say that Kroger offers necessities that the city needs and Target does not as a way to deny. Attorney Voss stated that Kroger may be more of a business district type set up which may be more in line with the Plans.

Mayor Kirby asked the commissioners if they have any further comments; or, if there is a desire to table the Ordinance at this meeting. Commissioner Heil stated he is ready to proceed with a vote.

Commissioner Kline stated that based upon what is voted on, is about based on economic changes and she feels that the request does not support that. Commissioner Kline made a motion to accept the Boone County Planning and Zoning Commission's recommendation for denial of the request. Mayor Kirby asked if there is a second to the motion and no city commissioner seconded the motion.

Mayor Kirby then read the Ordinance for the commission.

Ordinance No. 2014 – 004

(First Reading)

AN ORDINANCE OF THE CITY OF UNION, KENTUCKY GRANTING THE REQUEST OF ANNE F. MCBRIDE, FAICP, MCBRIDE DALE CLARION (APPLICANT) FOR ARLINGHAUS I, LLC (SUCCESSOR BY MERGER WITH ARLINGHAUS BUILDERS, INC. (OWNER) FOR A ZONING MAP AMENDMENT FROM RURAL SUBURBAN ESTATES/UNION TOWN OVERLAY (RSE/UTO) AND UNION NEIGHBORHOOD OFFICE (UNO) TO COMMERCIAL TWO/LANED DEVELOPMENT (C-2PD FOR A 35.25 ACRE SITE LOCATED ON THE SOUTH/EAST SIDE OF U.S. 42, TO THE WEST AND SOUTHWEST OF THE BOONE COUNTY LIBRARY SCHEBEN BRANCH AT 8899 US 42, TO THE WEST OF UNION VILLAGE SUBDIVISION, AND ACROSS US 42 FROM THE OLD UNION ROAD/US 42 AND FOWLERS LANE/US 42 INTERSECTIONS, LOCATED IN UNION, KENTUCKY.

Mayor Kirby stated this is an Ordinance to approve the zone change in order for the applicant to build a Kroger Marketplace at the location requested.

Commissioner Kline made a motion that as a city commissioner to first ask the Boone County Planning Commission to review the comprehensive plan to specifically see where C-2 zoning would be more appropriate for our city. Mayor Kirby asked if there was a second to the motion. No city commissioner seconded the motion.

Mayor Kirby then asked for a motion concerning Ordinance No. 2014-004. Commissioner Heil made a motion to approve Ordinance No. 2014-004. Commissioner Miller seconded the motion. City Clerk/Treasurer asked for a roll call from the city commissioners with the following votes, as recorded.

Commissioner Heil – Yes
Commissioner Kline – No
Commissioner Miller – Yes
Commissioner Fryman – Yes
Mayor Kirby – No

With the votes, as recorded, Ordinance No. 2014-004 passed with a 3 to 2 margin, as read.

PLANNING AND ZONING REPORT: Mr. Jim Logano stated that at the previous Boone County Planning Commission meeting there is a L.A. Fitness project that is proposed for the old Natorp's property. The vast majority (10.8 acres) is in the city of Florence that is currently zoned commercial, but approximately 1.14 acres is within the city of Union that is zoned residential and they have asked for a zone change. Another request was to allow a height variance on the property.

Commissioner Heil asked Mr. Logano if the Boone County Planning Commission review/recommendation will dependent on both cities combined or will they be acted upon separately. Mr. Logano stated they will be combined.

ECONOMIC DEVELOPMENT COMMITTEE REPORT (EDC):

Commissioner Kline stated that the committee will meet the next week and they are working on bringing new development into the City of Union. They have had people going to the state capital to lobby for more funding for the city. The committee is also working on the Development Day that is planned for the second week in May. They have secured local businesses that will help with this Meeting and Event. The goal is to have developers come in and build the Union Town Center.

CITY EVENTS COORDINATOR REPORT:

City Events Coordinator Karen Franxman was not in attendance Mayor Kirby briefly summarized her report.

The first event for 2014 will be the 5th Annual Pancake Breakfast and Easter Egg Hunt on Saturday April 12th from 8:30 – 10:30 am. Volunteers are still needed.

The Good Friday Fish Fry will be held on April 18th, from 4:30 p.m. through 7:30 p.m. This is a joint adventure and fundraiser for Boy Scout Troops 805 and 702.

PUBLIC WORKS:

Mr. Frank Beemon stated the street sign name Richmond Road at US 42 has fallen off its post. Mayor Kirby stated the city will contact Boone County Public Works and have it replaced.

Commissioner Bryan Miller stated that the only thing that he had to report was the cost for snow removal for the year. The city spent \$192,492.00 this is over the budget of \$132,000.00.

Commissioner Miller mentioned the parking lot needing to be re-sealed at the Union City Building and the quotes received. City Engineer Barry Burke stated he will discuss this issue in his report.

CITY ENGINEER'S REPORT:

Mr. Burke referenced his detailed City Engineering Report totaling thirteen (13) Items and summarized his report focusing on the need for any city discussions/actions.

By request, Mr. Burke stated that he recently received two (2) quotes for the re-sealing of the Union City Building parking lot. The two (2) quotes were from Len Riegler Blacktop, Inc. and Michels Construction. Inc. Mr. Burke recommended awarding the contract to Len Riegler Blacktop Inc. for the amount of \$1,865.

Commissioner Miller made a motion to accept the best and lowest quote from Len Riegler Blacktop, Inc. Commissioner Heil seconded the motion. All voted in favor. **Motion Carried.**

Mr. Burke stated has received more input via email for streets within Harmony Estates near the community pool in need of repair to add to the list for the upcoming fiscal year. Mr. Burke thanked Commissioner Kline for her input.

Mr. Burke stated he received a request concerning damage to an attached garage from Hempsteade resident Denise Ross due to what the resident felt was the public street pavement pushing in on her driveway, which in turn was pushing in on her garage, causing damages to the foundation and brick walls. Mr. Burke inspected the home on Hempsteade Drive and determined it was not the city's street causing the problem; but, rather a private surface storm water problem entering the footing/foundation. Mr. Burke stated he instructed the resident to contact her insurance company and provided the names of several private contractors to raise (ram jack) the footing foundation to remedy that problem. Mr. Burke stated that this is a private property issue and does not involve the city.

Regarding Item 1 (c), speed control devices (stop signs) along Arbor Springs Blvd at Ft. Henry Drive between US 42 and Richmond Road. Resident Dan Maher requested earlier to have speed humps placed in order to control speeding. Mr. Burke completed a speed study and determined that only stop signs at the intersection and not speed humps could be installed via ITE standards; and, should further control traffic speeds. However, the resident advises is still having issues, since many do not comply with stop signs. Mr. Burke stated that based upon the results of the previous study is there is not sufficient distance between the intersections to install speed humps; thus, his recommendation is to continue to monitor the situation and work with Boone County Sheriff's Department to ensure that motorists are obeying the stop signs.

Regarding Item 1 (d) there was a request from Ms. Stephanie Fister (1107 Bayswater Dr.) and Meredith Singleton (1108 Bayswater Dr.) concerning excessive speeding along their street. Mr. Burke stated that based upon the ITE Guidelines, he did not feel there was enough volume of traffic to warrant a speed study at this time. He recommended the residents and city continue to monitor the issue in the future.

Regarding Item 10 (c), on Wednesday, April 16th there is a SD1 meeting regarding a storm water long term planning with the Storm Water Advisory Committee at the Erlanger Branch Library inviting all of the SWPPP 30 co-permittees. Mr. Burke, as the city's primary contact, has requested he attend; and, will report on this meeting at the May meeting. Commissioner Miller stated that he would join Mr. Burke at the meeting.

Regarding Item 13, the street repairs and other issues for Fiscal Year 2014-2015. Mr. Burke stated he is continuing his observations/inspections on the city streets, etc. and will make a full report with details and budgets at the next meeting.

ITEMS FOR CONSIDERATION:

Ordinance No. 2014 – 003
(Second Reading)

AN ORDINANCE SETTING THE COMPENSATION FOR MAYOR AND CITY COMMISSIONERS FOR THE CITY OF UNION, KENTUCKY. The compensation will be set at \$200 per month. Commissioner Miller made the motion to accept the Ordinance as read on second reading. Commissioner Heil seconded the motion. All voted in favor. **Motion Carried.**

EXECUTIVE SESSION: None

ANNOUNCEMENTS:

The next regular "special" business meeting for the vote on the second reading for Ordinance No. 2014-004 needs to be prior to May 25th. The Ordinance needs to be published prior to the deadline of May 5th. Mayor Kirby asked if the commission would be available on Friday, April 18th for a special meeting.

ADJOURN:

With no further business coming before the Commission, Commissioner Heil moved to adjourn the meeting at 9:56 pm. Commissioner Fryman seconded the motion. All voted in favor. **Motion carried.**

Signed this 5th day of May, 2014

APPROVED:

ATTEST:

Don Kirby, Mayor

Kathy Porter, City Clerk/Treasurer