

CITY OF UNION, KENTUCKY
REGULAR BUSINESS MEETING at 7:00 p.m.
MINUTES
Tuesday, September 7, 2010

CALL TO ORDER: Regular Business Meeting

Mayor Don Kirby called to order the Regular Business Meeting for the Union City Commission on Tuesday, September 7, 2010 at 7:00 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. Sixteen (16) citizens signed the attendance sheet.

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

Commissioner Sayers moved to accept the REGULAR BUSINESS MEETING MINUTES of Monday August 2, and the motion was seconded by Commissioner Adams. **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: September – Vineyard Food Pantry. Karen Franxman introduced Mr. J. T. Schultz from the Vineyard Food Pantry. Mr. Shultz thanked the commission for sponsoring them for the month of September. The pantry serves about four hot meals per month, between 300 and 400 people each time. Mr. Schultz read a letter from a previous recipient. Every Thursday from 10:00 a.m. – 2:00 p.m. people can come to the pantry and receive a bag of groceries. Mr. Schultz left a list of items that the pantry need.

Mayor Kirby told the audience what the Union Cares Program is.

Mayor Kirby read and presented to Attorney Voss, a Proclamation Setting Childhood Cancer Awareness Day for the City of Union, Kentucky. The Proclamation sets Monday, September 13, 2010 as “**CHILDHOOD CANCER AWARENESS DAY**”.

Mayor Kirby recognized Boy Scout Troop 805 at the meeting. The following scouts attended the meeting: Jackson Sherman, Shane Higgins, Sam Hopkins, Jack Kirby, Jeff Tillinghast, Gage Dorsey, Jacob Grimes, Riley Kneale, Joey Guenther, Nathan Sudenga, Weston Rainer, Jonathan Plattner, Sam Henning, and Nicky Guenther. The scouts were in attendance working on their Citizenship in the Community Merit Badge.

CITIZENS WISHING TO SPEAK:

None

PRESENTATION BY L&M Surveying and Engineering Regarding the Union Pointe Centre

Mr. Mills Rouse, Esq. Legal counsel for Union Pointe Centre and L&M Engineering gave a brief overview of the project. Mr. Rouse stated that a draft had been sent to each commissioner concerning the request for the change in the Plan in the Union Commercial Zone to allow a convenient store that would sell gas, beer and other uses. By vote on July 7, 2010 the Boone County Planning Commission voted to not change the current zoning regulations. The business that is proposed for the spot on South US 42 is an IGA type Express Mart which will have the convenient store products as well as a deli (sandwiches, pizzas, salads, etc.) also some fishing items will be sold. The store will also sale gasoline. The prospective sales from this location 9.36 million in gross revenue per year, and will bring up to twenty (20) new jobs to the area.

Dr. James Wright, a dentist who has been practicing in Union since 1985, addressed the commission concerning the projects. He stated that he spent at least five (5) years trying to get something at this location. He said he tried to get

**UNION CITY COMMISSION
MINUTES – Tuesday September 7, 2010
PAGE 2**

restaurants, but they just wouldn't go in there. He stated that the planning commission has already given him the approval to put a convenient store on this location, but he could not put gas pumps in. The commission called it a country store.

Mr. Jim Longano the City representative on the Boone County Planning Commission addressed the residents. Mr. Longano said the zone change committee voted against the proposal by a vote of four to zero (4-0), which was brought to the planning commission and the planning commission voted against the proposal by a vote of eight to two (8-2). Mr. Longano was not involved in the zone change committee, but stated that the main reason they voted against the proposal was they looked back at the 2005 decision to restrict the gas sales and did not feel that things have changed to make the proposal any different.

Bryan Miller a resident of Union asked how far the business will set back from the road. He stated that the business that was in the spot previously set close to the road and caused traffic issues, but if the business set back off the road and on the hill it would make it better. Dr. Wright stated that there will be two (2) exits on Frogtown Road and the Main entrance would be on US 42.

Several residents spoke in favor of the business.

Autumn Short a resident from Union spoke in favor of the business.

Bob Porter – Chambers spoke in support of the business.

Randy Barlow – stated he was not speaking for or against the proposal. Mr. Barlow stated that when the original zone change was brought to planning and zoning the fuel pumps was the biggest issue. Fuel pumps will bring more traffic to the area causing congestion. Dr. Wright agreed then that if granted the zone change he would not put in fuel pumps.

Dave England – Big Bone Road spoke in favor of the business. He has lived in the area for over thirty years. He stated that no matter where you go there will be traffic. This will keep income in Union and not sending it to Florence.

Donna Sawyer – 1733 Mt. Zion Road. A lifelong resident of Union stated that we need a nice new local place in Union. Someone stated that there needs to have something on the corner of US 42 and Frogtown Road. He mentioned the new developments that are going on in Florence.

Jackson Sherman who goes to Boone County High School spoke in favor of the business. He stated that it would be nice for the Ryle High School students.

A student from Ryle mentioned the benefits of the store to the students.

Dan Zmurk who ran the IGA and then the Ameristop in Union stated that the proposal would provide quality service and value.

Tom Torline a Union resident commented on the change in the economy. This would not only help with the economy of Union but also help a resident of the city.

Mayor Kirby asked if anyone would like to speak in opposition of the proposal.

No one wished to speak.

Mr. Rouse asked the commission to overturn the decision that was made. Mr. Rouse, stated that they would be willing to help out with any extra costs that the city would incur during the special hearings and meetings that would need to take place prior to the October meeting.

Kris Lovett asked if there are any other IGA Express Marts in the area. Someone said there is one on Route 18 that was an existing building that was converted into an IGA Express. She asked about the square feet and was told that it is 7,500 square feet.

Mr. Kelly stated that the right-in and right-out has already been approved and is not an issue. This was approved by the state highway department.

A person from the audience asked how the community was surveyed. Mr. Hoagland stated that they had several public hearings and a steering committee. A question was asked if they would be doing this type of survey will be done this time. This would probably be something they would do. Someone asked about maintenance? This is something that

**UNION CITY COMMISSION
MINUTES – Tuesday September 7, 2010
PAGE 3**

will be looked at during the planning process.

Mayor Kirby asked the commission if they were satisfied, or if they would like to have more time to review the packet of information. Mayor Kirby said he was inclined to like this new development. Attorney Voss suggested that Dr. Wright help make a more formal decision. Attorney Voss asked if there is any more documentation that Dr. Wright would like to bring before the commission. Dr. Wright said that all the information is in the packet. Mr. Adams stated that he would need more time. Mr. Sayers asked for more time. Mr. Kelly said he could vote or the need for more time would be ok also. Mr. Mefford also said he could also vote now or take more time to review. Attorney Voss suggested that the commission have a special hearing to allow everyone who would like to speak be given the opportunity. Attorney Voss advised regarding two (2) options for a public hearing and said there will need to be a first and second reading if the commission acts to overturn the decision of the planning commission. There should be a special meeting and will be published given the citizens a right to speak again. Someone asked how long the meeting should last and Mayor Kirby said he would like to have everything wrapped up within an hour and a half.

At this time the audience members that were here for this presentation were permitted to leave.

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 17 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 been tapped-in to the new public sewer. Within Phases A&B, there are three (3) violations, DECA, Long, and Scott May. Attorney Voss advised that several of these users have not yet been resolved from legal easement compensation.

The delayed sewer is finally moving forward on the Volpenhein property as last part of phases A&B. Mr. Burke has received approval by SD1 regarding revised design drawings as well as the shop drawings for the special manhole required for connection to the SD1 system. This last section should now move forward by G&T toward construction, inspection and completion.

Regarding Mr. Schrage, Mr. Burke met with Mr. Schrage concerning his retaining wall problems and drainage issues. Mr. Schrage stated that the drainage from the highway is running down onto his property causing the retaining wall to collapse. The highway department reviewed the matter and stated that this is not their problem. Regarding the drainage problem along the opposite side of Mt. Zion Road fronting the city building, the highway department started cleaning out the culvert under the city access drive about a month ago but stopped without explanation. Mr. Burke later contacted KYTC maintenance personnel and District 6 office and they stated that certain policies have changed for commercial entrances. The city may have to file for an Encroachment Permit to install a new culvert under the entrance with headwalls. The KYTC may perform side ditching and culvert work under the Mary Noe driveway to channel the water to another existing culvert under Mt. Zion Road. Mr. Burke will contact them again to see what needs to be done to completely resolve this matter.

Both Phase C and Phases A&B of the sewer project are under budget, in the amounts of \$6,853.45 and \$46,837.97 respectively to date.

Regarding the SD1 sewerage billing statements for the KIA Loan reimbursement, Mr. Burke stated the city needs to contact SD1 to collect the charges for the assessments that SD1 has collected from the new benefited users. SD1 has previously stated that reimbursements would be refunded to the city on a monthly basis, when these bills started in February 2010. Kathy Porter, City Clerk, has called them, but will contact them again.

Regarding Hempsteade Drive Improvements under Item #2, Mr. Burke has spoken with residents Kevin Kreft and Mike Nordloh concerning the three (3) streets on Hempsteade Drive, including Lakeway, Lakepoint and Kingston Court. Mr. Burke suggested we now contact Michel's Construction concerning a Quote to seal all previously unsealed joints on these streets. This issue was overlooked earlier when we were approaching the \$20,000 figure for a public bid. Following a contractor duplicative bidding error, the balance of this project can now be completed. With

**UNION CITY COMMISSION
MINUTES – Tuesday, September 7, 2010
PAGE 4**

the commission's approval, he will contact Pete Michels. Mayor Kirby said for Mr. Burke to proceed with getting the final sealing Quote.

Regarding Item #2(d) Cedarwood Drive, Pete Michels Construction is currently working on this project.

Regarding Item #4, the Storm Water Plans, we are dealing with both Quality and Quantity per Kentucky state law being administered by SD1 with Union as one (1) of 33 Co-Permittees. Regarding a law abiding issue forwarded by Attorney Voss, certain state agencies (e.g. universities, school districts and special districts, such as the Union Fire Department) can no longer ask for an exception regarding storm water user fees. The SD1 has been sending bills to these entities that were previously exempt, and now are receiving bills, and the bills are being paid. Mr. Burke stated that this issue may not have been a problem within the City of Union

Regarding Item #6, the Union City Building and the Community Building, the Permits for sewer tap-ins have been received. Ed Morehead Plumbing has already started the tap-in for the City Building. Helmer Plumbing has scheduled his project to start in the near future.

Regarding the quotes for the City Building flooding issue, we have received Quotes from two (2) qualified contractors, and Mr. Burke recommended Spillman Landscaping be awarded the Project. The Quote from Spillman Landscaping was for \$4,894.00. We are waiting on a Quote from Florence Nursery. Mr. Kelly asked about the two (2) estimates per Quote that were received. Mr. Burke stated that based upon the design plan and on-site observations with two (2) contractors and further input from Kathy regarding water intrusion into the building, the Quotes were broken down into two (2) sections, the front door flooding problem; and, the issue of high earth mounds and mulching around the balance of the building. Kathy Porter stated that Ed Morehead would like to submit a Quote for the project. Mayor Kirby suggested we give the other contractors the opportunity to submit a Quote.

Regarding Item #7, the Entrance Safety Lighting at the Villa's of Fowler Creek Subdivision, Mr. Burke has not heard a response from the Homeowners Association (HOA) regarding the \$2,500 fee.

Regarding Item #9, the Storm Water Surcharge on Hartwood Court, the project is complete and Mr. Burke recommends that the contractor TMS Construction be paid the Invoice, as previously authorized.

Regarding Item #10, the Timber Railings at Gunpowder Greens, the new rails have been put in place to the residents satisfaction, except for future staining. Mr. Burke recommends paying the contractor R.E.B.T. Construction the Invoice, as previously authorized.

Regarding Item #12, Mr. Burke is monitoring some water leaks that have been reported. Boone County Water District was notified concerning a leak at 1641 Mt. Zion Road (which has not been repaired), a leak at 10127 Hempstead Drive which was repaired, and one at 1855 Whispering Trail which also has been repaired.

Regarding Item #13, Mr. Burke met with Mr. Becknell concerning the Pot Hole at 1588 Sycamore Drive. The pothole has been repaired by BCPW at BCWD expense, but the front yard has not been adequately restored and according to Mr. Becknell, "treated water" was surfacing through his property from the Drees development. Yard restoration will be performed by the proper party. Mr. Burke will respond to the other Mr. Becknell concerns.

Regarding Item #14, the Whispering Trails Storm Drainage Report, Mr. Burke has received one (1) phone response from Mr. Hedenper regarding the substance of the Report. One other resident MR. Eric Hall messaged that his culvert pipes were larger (48") rather than what Mr. Burke had measured (36"). We are still waiting to see what steps SD1 might take regarding its participation in the project.

Mr. Jon Campbell, a resident of Whispering Trail spoke about his concerns regarding of the erosion of soil beneath his driveway. Mr. Campbell is concerned about the time frame of the repairs. Before his driveway collapses, he would like the city to repair his culverts and driveway, similar to the work performed and paid for the adjacent Kim Landrum

UNION CITY COMMISSION
MINUTES – Tuesday, September 7, 2010
PAGE 5

property. In response to Mr. Campbell, Mr. Burke suggested having a contractor come in and stabilize the pipe until SD1 responds to the extent of overall project. Mr. Campbell asked for the city's financial help concerning this problem, stating that it is an emergency situation. Mayor Kirby suggested that Mr. Burke respond to Mr. Campbell's request regarding this issue. Mr. Burke stated that these two (2) cases are very different. In the Landrum rear yard earth regrading case, basement flooding was a public health problem specific to the occupancy of the home. In the Campbell case, vehicle access to a garage, although some safety is involved, is not a public health issue. Public funds should not be used inappropriately without careful consideration. The city agreed to deny Mr. Campbell's request for financial help at this time.

Regarding Item #15, the Charles & Jill Price swimming pool at 10030 Cedarwood Drive, a recommendation to encroach the public easement by letter to the planning commission was made, subject to certain conditions. This project is proceeding toward the proper Permits.

Regarding Item #17, the Traffic Accident Report from July 20, 2010, the Attorney Wm. Kathman, Esq. from the family is requesting a meeting with Mayor Kirby and Mr. Burke. Attorney Voss asked that in the future when contacted by an attorney to please contact him.

PUBLIC WORKS/UNION VISIONING COMMITTEE:

Mr. Kelly spoke about the Union Village Gas Lights. Commissioner Sayers who live in the subdivision, stated that 4 entrance way stanchions with two gas lights on each one that the HOA has shut off without the approval of the residents. They have installed a regular incandescent light bulb that shines on the entrance sign and the yards behind it. Mr. Sayers said that out of the thirty-one lights in the subdivision twelve of the lights are off. Mr. Kelly refreshed the commission of the decision to pay for \$10.67 per light a month to cover the cost that the city would pay for the lights if they were electric. Mr. Kelly sent an email to the HOA president who responded by saying the turn off could be seasonable. Mayor Kirby said that we should only pay the amount for the lights that are on.

Mr. Kelly asked Attorney Voss if they maybe some sort of safety issue that might come into play by them not having all the lights on. Attorney Voss said for Mr. Kelly to be get him some information and he will review it.

Mr. Kelly also worked on several other resident complaints, such as garbage cans being left out passed the time set by the ordinance, street signs missing or vandalized in Hempesteade, they have now been replaced, and animals running at large. All items have been handled.

CITY EVENTS COORDINATOR:

Karen met with Helmer Plumbing about the sewer tap-in. He said that the work will be started on September 13, 2010 and should only take three or four days (3-4).

Karen mentioned the Community Events; we received the flags for Mr. Moore's granddaughters that were flown in Afghanistan on the day of the dedication ceremony. They have been sent to them.

Karen met with the events committee and have put together a calendar for the upcoming 2011 year.

The committed discussed a possible fall carnival for October 2, but this event would conflict with other festivals and they feel that October 23 would be a better date. They will have funnel cakes and popcorn, and drinks will be sold by the adopt – a – unit. Karen said at the next meeting in October she will go into more detail on this event.

On September 17-19, the St. Timothy will host Oktoberfest. The city will be once again having a booth. Karen would like to have some volunteers to sign up and work the booth.

The next volunteer committee meeting is scheduled for Thursday, September 30, 2010 at 6:00 pm, at the Union

**UNION CITY COMMISSION
MINUTES – Tuesday, September 7, 2010
PAGE 6**

Community Building.

The next Adopt-a-unit meeting will be Wednesday, September 8 at 6:30 pm. They will be packaging August and September birthday boxes.

The unit has requested we send them a flag from the school and the city that they will be able to fly at their base. Attorney Voss had been asked whether the city can use city funds to pay for shipping and other items. Attorney Voss stated that he spoke with KLC concerning this. He said as long as the city did not pay directly to the adopt-a-unit committee they should be able to help out the committee.

CITY CLERK REPORT:

Kathy has received estimates for repairs to the community building.

Kathy mentioned that to save money the city has decided to drop the WebQa service for resident complaints. The mayor will work on getting something on their website that will route the complaints to the city email.

Kathy is working on getting some information together to allow each commissioner to view the expenditures for the city on a monthly basis.

Also it is tax season again tax bills will be mailed out soon.

OLD BUSINESS:

Second Reading of ORDINANCE NO. 2010 – 004 – **AN ORDINANCE ANNEXING CERTAIN UNINCORPORATED TERRITORY ADJACENT TO THE PRESENT BOUNDARIES OF THE CITY OF UNION, KENTUCKY.** Commissioner Sayers made a motion to accept, Commissioner Adams seconded. **Motion carried.**

Second Reading of ORDINANCE NO. 2010-005 – **AN ORDINANCE DEDICATING THE UNION CITY BUILDING IN HONOR OF WARREN S. MOORE.** Commissioner Adams made a motion to accept, Commissioner Mefford seconded. **Motion Carried.**

NEW BUSINESS:

First Reading of ORDINANCE NO. 2010-006 – **AN ORDINANCE LEVYING AND FIXING THE TAX RATES OF THE CITY OF UNION, KENTUCKY, FOR THE FISCAL YEAR 2010; LEVYING SAID TAX UPON REAL, AND TANGIBLE PROPERTY; FIXING THE DATE OF PAYMENT, DISCOUNT PAYMENT, DELINQUENCY AND INTEREST CHARGES; FIXING THE PURPOSE THEREFORE; AND SETTING FORTH THE PROCEDURE FOR COLLECTION OF TAXES.** Commissioner Sayers made a motion to accept, Commissioner Mefford seconded. **Motion carried.**

Someone stated that the way some counties in the state of Kentucky are calculating the compensating rate is wrong, Boone County being one of them. Mayor Kirby asked if this is overestimating or underestimating. The resident stated it was overestimated. Attorney Voss said the attorney general says that this has been done this way since 1975 and said it was appropriate. Until a court comes out and overturns it the way the taxes are calculated will stay the same.

First Reading of ORDINANCE NO. 2010-003 – **AN ORDINANCE FOR 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.** Attorney Voss will revise this ordinance and will have it available for first reading in October.

Reading of RESOLUTION NO. 2010-006 – **A RESOLUTION AUTHORIZING THE MAYOR FOR THE CITY OF UNION KENTUCKY TO ENTER INTO A CONTRACT FOR CITY ATTORNEY.** Commissioner Kelly made a motion to accept, Commissioner Sayers seconded. **Motion Carried.**

**UNION CITY COMMISSION
MINUTES – Tuesday, September 7, 2010
PAGE 7**

A resident asked why the budget amount for the attorney is less this year than last year. Attorney Voss, stated that the amount for 2010 included an amount for the sewer project that will be completed this year.

EXECUTIVE SESSION:
NONE

ANNOUNCEMENTS:
Halloween trick-or-treat hours were set at October 31, 2010 from 6-8 pm.

Next City Commission Meeting: Monday October 4, 2010 @ 7:00 p.m.

Kathy Porter asked for authorization to transfer \$349,277.04 from the sewer grant account to business checking. Mayor Kirby gave her authorization to do this.

No further business came before the Commission. Commissioner Adams moved to adjourn the meeting at 9:37 p.m. Commissioner Sayers seconded the motion. **Motion carried.**

Signed this 4th day of October 2010

APPROVED:

ATTEST:

Don Kirby, Mayor

Kathy Porter, City Clerk/Treasurer