

**CITY OF UNION, KENTUCKY
REGULAR BUSINESS MEETING
MINUTES
Monday, October 1, 2012**

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

CALL TO ORDER:

Mayor Pro-Tem Bob Kelly called the Regular Business Meeting of the Union City Commission to order at 7:00 p.m. Monday, October 1, 2012.

ROLL CALL: The following members were present:

Mayor Pro-Tem Bob Kelly
Commissioner John Adams
Commissioner Bryan Miller
City Engineer Barry J. Burke, PE PLS
City Clerk Kathy Porter
Attorney Greg D. Voss, Esq.

Mayor Don Kirby, Commissioner John Mefford and City Events Coordinator Karen Franxman were not in attendance.

PLEDGE OF ALLEGIANCE: Mayor Pro-tem Bob Kelly led the audience in saying the Pledge of Allegiance to the Flag.

APPROVAL OF MINUTES:

All City Commissioners were provided a copy prior to tonight's meeting. City Engineer Barry Burke had a minor correction and would like his comments concerning the Cincinnati Bell Fiopitics added to the September meeting minutes. Commissioner Adams made a motion to accept the minutes and the motion was seconded by Commissioner Miller. **Motion carried.**

ADMINISTRATIVE REPORTS:

City Clerk/Treasurer Kathy Porter: Commissioner Miller moved to accept the Treasurer's Report as of September 30, 2012, and Commissioner Adams seconded the motion. **Motion Carried.**

GUESTS WISHING TO SPEAK:

Mr. Rick Lasita, a resident of Soaring Breezes in the Harmony Subdivision, addressed the commission concerning a petition from the residents in his neighborhood requesting a speed hump to be placed in his neighborhood. City Engineer Barry Burke performed a speed study which Mr. Lasita stated that ninety-eight percent (98%) of vehicles that traveled on the street were exceeding the posted speed limit. The standard, as he was advised, is eighty-five percent (85%). What came into question was the low volume of traffic that was witnessed at the time Mr. Burke did his observations. The position of the street residents is that, while they respect the standards, they take the position that it only takes one vehicle exceeding the speed limit to cause an issue. Mr. Lasita stated that the Drees Company is still building homes in the area and the traffic flow will increase. Based on the study and what Mr. Burke has told the residents, the street is only long enough to warrant one speed hump and he advised them where it would need to be placed, if the city commission approves it.

Mayor Pro-Tem Kelly asked if the street has been dedicated. Mr. Lasita stated that the street has been dedicated.

Commissioner Miller asked if Harmony Subdivision had an HOA and if they had brought the speeding issue to their attention. Mr. Lasita stated that there is a HOA and they had been approached. The HOA's stance is that the speeding is not an HOA issue; it is more of a City of Union issue. Commissioner Miller asked if the HOA cared if speed humps were put it. Mr. Lasita stated that there are speed humps in other parts of the subdivision.

Mayor Pro-Tem Kelly stated that ultimately the decision to place a speed hump is up to the city.

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City Engineer Barry Burke stated that he was previously directed to do the spot speed study within the community along Soaring Breezes. It has been the city's position in the past to wait until all lots have been completed. Mr. Burke stated that there are still a 2-3 lots at the intersection of Soaring Breezes and Evensong Drive that have not been developed and a few unoccupied homes. Mr. Burke stated that he did the tests during the a.m. and p.m. peak hours in accord with ITE Guidelines. Mr. Burke stated that in the past along Melody Drive, a nearby street, the commission acted on the side of safety and not just the low volumes taken. Mr. Burke stated that the ITE standard states that you need a volume of at least fifty (50) preferably one hundred (100) vehicles for an appropriate study. The current study along Soaring Breezes resulted in a total of only 18 and 34 vehicles in both directions during the p.m. and a.m. studies, respectively.

In his CE Report to the city commission, Mr. Burke recommended delaying the installation of the speed hump due to the low volumes of traffic.

Mayor Pro-Tem Kelly stated that the petition says a lot to the commission, that each resident of the street agrees that a speed hump is needed.

Commissioner Miller asked if the current speed humps within the city actually does what they were intended to. Mr. Burke stated that at the request of the mayor previously he had re-evaluated certain humps and obtained some post speed hump representative data. Thus, based upon this sampling, speed humps have decreased the speeds in the areas of the city where humps were constructed.

Commissioner Miller asked the new City Snow Removal company Perfection Landscaping's Kevin Beach if the speed humps affect their ability to remove snow. Mr. Beach said that typically they do not have any effect on the ability to remove snow. The snow plows are hydraulic and the plows will ride over top of the speed hump.

Commissioner Kelly asked if the city agreed to placing a speed hump in this area how soon can they place them. City Engineer Burke stated he had obtained quotes from two reputable contractors. The first quote is from Michels Construction Co. for \$1,875 and the other from Len Riegler Blacktop for \$2,000. The new hump could be placed this year before the asphalt plants close. Subsequently, the Boone County Public Works Sign Division will place speed hump signs on both ends of Soaring Breezes.

Commissioner Kelly asked for a motion to accept the bid from Michel Construction to place a speed hump on Soaring Breezes. Commissioner Miller made the motion and Commissioner Adams seconded. Motion Carried.

Mr. Frank Beemon, who lives at 8872 Richmond Road, addressed the commission concerning vehicles speeding in his neighborhood. He stated people would go 30 to 40 miles an hour past his home. He stated that the speed hump(s) in his neighborhood do not seem to slow down the drivers. Mr. Beemon also mentioned bike riders in his neighborhood and how they don't stop at stop signs. The commission acknowledged Mr. Beemon's comments.

Regarding the CinBell Fioptics issue in Hempsteade, City Engineer Barry Burke stated that a meeting was held with Mr. & Mrs. Braun, Mr. & Mrs. Clifton, Cincinnati Bell Representatives and City Attorney Greg Voss. At the meeting, the Cincinnati Bell Fioptics issues were discussed. Mr. Burke advised that the original encroachment permit that was approved in June for Cincinnati Bell is still in force. However there have been some problems concerning some construction items that have taken place that were not included in the original permit within the public right-of-way. Later, Cincinnati Bell submitted four (4) additional encroachment permits for this construction. Two (2) of these additional permits are for areas located on Hempsteade Drive related to open holes that have since been repaired, and fully restored. Thus, these two (2) permits are non-issues. The remaining two (2) new applications include an open hole in front of the Braun property (10198 Hempsteade Drive) and the proposed facility on property owned by Clifton at 1004 Bayswater. The Fioptics cabinets exist on the Clifton's property within an existing utility easement and two (2) to three (3) feet within the city's public right-of-way. The masonry walls that have been built around the concrete pad that the cabinets are on, extends out onto the public right-of-way. There is also the matter of the discharge pipes that may generate excessive water to overtop the sidewalk making

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this a potentially hazardous safety problem for pedestrians. These pipes are footing drains and do not let a lot of water out, but they are still drains. There is also an electric post with a meter on it that is within the limits of public right-of-way. Cincinnati Bell representatives stated that this meter post needed to be placed outside from the back walls for access by the electrical inspector. The results of the meeting were to have Cincinnati Bell prepare a landscaping plan drawn up by Perfection Landscaping, the same landscaper employed by the HOA. Cincinnati Bell will also review and resolve any drainage problems, where required. Other items discussed included the cabinet equipment fan noise, replacing the pre-existing trees and visually buffering the structures with landscaping as selected by the Clifton's.

Regarding the two (2) trees on Clifton's property that were damaged or impacted by the construction, Cincinnati Bell will give a written guarantee that if they die within a reasonable time frame, they would be replaced.

Cincinnati Bell will also contact the HOA's management firm "Vertex" concerning future maintenance of all the landscaping. Both the Braun's and Clifton's feel more buffering is necessary fronting the walls closest to the street. Perfection landscaping discussed a couple of options and other landscaping ideas that may work. Cincinnati Bell stated that they would be willing to restore with sod rather than seed and mulch all the areas that were disturbed.

Mr. Burke recommended approving the revised encroachment permit allowing Cincinnati Bell to complete the work fronting Braun's property. Mrs. Braun was asked if she had any concerns with the city allowing the encroachment permit to be approved, but only subject to conditions to finalize construction to move the project forward.

Mrs. Braun stated that she is a little concerned that what Cincinnati Bell says they are going to do is not what the residents will actually get. Cincinnati Bell stated that they would remove the below grade structure and tie-in to an existing pole structure, but then they may have to replace the existing small pole structure and it when it is upgraded it might be a different size. Ms. Braun asked Mr. Burke if had received any drawings or specifications from Cincinnati Bell. Mr. Burke stated that the encroachment permit, in question, only concerns the work that is being done on Braun's property and they do not have an above ground cabinet located there. Mrs. Braun stated that she is still concerned that they will not be satisfied. Mr. Burke clarified that the encroachment permit is only for the work that is being done within the city's right-of-way not anything that is on the easement that was granted by Drees Company as part of the record plat years ago. Mr. Burke stated that the city could not control what was placed within the easement, but only what is within the public right-of-way.

Mayor Pro-Tem Bob Kelly asked Mrs. Braun if she would contact the city if she sees anything that is being done that might be a problem.

City Attorney Greg Voss stated that Misty Ezell, the Administrative Assistant for the city, was in attendance at the meeting with Cincinnati Bell and residents to take a record of the meeting.

Mr. Burke stated that he had amended the encroachment permit fronting Braun to state what Cincinnati Bell had agreed to do in regard to final restoration (i.e. place sod rather than seed and straw). Mr. Burke once again stated that he recommended the city approve the encroachment permit fronting the Braun property and allow the work to be restarted, but only subject to the permit, as revised. The city acknowledged by a vote that the encroachment permit will be issued to Cincinnati Bell and a copy to Ms. Braun.

Regarding the CinBell Fioptics Permit fronting the Clifton property, Mr. Burke stated that two (2) issues have been brought forth, the first issue being the drainage pipes which Cincinnati Bell has discussed either removing or capping pipes or tying into an existing system further down the street. The other issue is the electric pole and meter box that has been constructed within the city's public right-of-way. Mr. Burke stated that the city could force Cincinnati Bell to move the structure back onto private property. But moving it back about one (1) foot would not be noticeable change. In addition, this action could force them to widen the structure and make it even larger, a real concern for the residents.

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As for the final restoration, Mr. Clifton has indicated that he did not want a lot of greenery that he would have to maintain.

Mr. Kevin Beach with Perfection Landscaping stated he received a call from Cincinnati Bell concerning the final restoration in the Braun's yard and to look at the retaining wall and other items for the Clifton property. Cincinnati Bell's Mike Wallace instructed Mr. Beach to perform any repairs to the Braun's yard and to look at the retaining wall and see if it needed to be rebuilt. Mr. Beach stated he is certified through the Allen Block manufacturer to build these types of short retaining walls. He stated the wall is structurally sound, it does have a small bow in it but it is structurally sound. As for the drainage pipes, according to Allen Block specifications, any wall under four feet (4') in height does not require such footing drainage. It is considered a gravity wall and water will flow through the stones as needed, provided the wall is built correctly and placed gravel behind the stone. Thus, the pipes that daylight near the sidewalk does not need to be there and may be capped or removed.

Attorney Voss asked Mrs. Braun if they had reported earlier about an abundance of water coming from the pipes. Mrs. Braun stated that Mr. Clifton had seen water coming from the pipes. Mrs. Braun also stated that she had seen water standing on the back of the pad. Mr. Beach stated in his opinion is the pipes don't necessarily need to be there. Mr. Beach stated that the wall does not need to be torn down, but the end caps need to be replaced. Cincinnati Bell was made aware of the changes that need to be made to the wall and asked Perfection to give them a quote to perform any repairs.

As for as the existing landscaping, Mr. Beach looked at the Clifton's trees that are affected. There are two (2) trees, one (1) is a Spruce tree and the other is a Maple. The Spruce tree is too close to the wall, and if any landscaping border is placed back there to buffer the wall, this existing tree will not do well. The Maple tree, Mr. Beach stated he did not know what the tree looked like prior to this construction, but it is somewhat hollow. The whole back of the tree is missing. This tree will probably die.

Attorney Voss stated that these trees are on and between the Clifton property and the Cincinnati Bell easement.

Commissioner Miller asked if Mr. Beach had spoken to Cincinnati Bell concerning the drain pipes. Mr. Beach stated that he had not as of yet.

Mr. Kelly asked about the other neighbors and if they had made any suggestions. Mrs. Braun said she had spoken to them, but they did not have any concerns.

Mrs. Braun stated that the wall is her biggest issue. On one (1) side, it is three (3) inches from the sidewalk and the other side is just a little further back. She stated that it would be hard to landscape in front of the concrete pad and the wall because of this. Mr. Beach stated that there is plenty of room to landscape there. He would prepare a drawing and give them options regarding various landscaping on what they would like to have done. Mr. Beach's concern is the maintenance of these plants.

Mrs. Braun stated that Mr. Wallace was going to contact the HOA about possible taking over this responsibility.

Mr. Beach stated that if they have to take portions of the wall out, it will make matters worse.

Commissioner Kelly asked if they landscape could Cincinnati Bell have access to the boxes. Mr. Beach stated that if they put grasses in front of the pad then they could tie the grass together and once they are completed they could untie it.

Mrs. Braun stated that the pad is an issue kids are already dumping their trash. Mr. Burke stated that if the HOA agrees to maintain the area this issue could be taking care of.

Mr. Beach stated that this type of box appeared in another subdivision that he is maintaining and the HOA is taking care of the landscaping.

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Mr. Burke stated that the city needs a plan. Mr. Kelly asked if Perfection prepare a plan. Mr. Beach agreed to prepare a plan for Cincinnati Bell.

Mr. Beach asked Mr. Burke if there is a height requirement for a wall without a railing around it. Mr. Burke stated that it is forty-two inches (42") by the building code. After some discussion using photos, it was concluded that the back of the wall is less than that requirement

After this discussion, Mr. Burke recommended that Cincinnati Bell encroachment permit fronting the Clifton property be issued and released but only subject to conditions set forth in the permit.

Mrs. Braun stated that her other issue is the noise that the fans are making. Cincinnati Bell stated they would check the manufacturer's specifications. Mr. Burke will follow-up with Cincinnati Bell.

Mr. Kelly agrees that this needs to move forward. Thus, the city acknowledged by a vote that the permit fronting the Clifton property be released, but only subject to the conditions, as stated in the permit.

Prior to the Events Coordinator report, Mr. Kelly asked Mr. Beach if he had any questions concerning snow removal. Mr. Beach stated that his big concern would be salt storage. City Clerk Kathy Porter stated that the city would need to get approval from the county to store the salt at the Union Pool as they have done in the past. Mr. Burke stated that the storage under tarps with straps is an EPA/KYDOW issue because of salt leaching on the hillside during the previous year. Mr. Beach stated that he has seen the area and will take all necessary actions to make sure the salt does not leak out.

Chief Morgan with the Union Fire Department addressed the commission and let them know that if anyone had any concerns or questions regarding the department they can feel free to call him. Although the fire department is a special district with their own taxing authority and not a city department, Chief Morgan stated he is always available to answer questions; and, he is a Union resident.

CITY EVENTS COORDINATOR:

City Events Coordinator Karen Franxman was not in attendance. Mr. Kelly briefly summarized her report. October 20th is the Fall-For-All event. The event will start at 10:30 a.m. and continue until 8:00 p.m. It will also include a 5k race that will begin at 9:30 a.m. Old Union Road (the section from Mt. Zion Road to the Union Pool area) will be closed beginning at 8:00 a.m. for the event.

The Events Committee will have their next meeting on Wednesday, October 3, 2012 at 6:30 p.m. in Porter Hall at the Community Building. Anyone interested in volunteering is invited to attend.

On Saturday, September 8th the Adopt-A-Unit had a cook-out fundraiser at the Union Kroger. They raised \$300.00 at this event.

The Union Community Theater held auditions on Friday, September 7th from 6:00 to 8:00 p.m. and Saturday, September 8th from 2:00 to 5:00 p.m. for the winter show "It's A Wonderful Life". They had approximately fifty (50) people show up for auditions. Additional Information is available on their website at www.unionct.net.

PUBLIC WORKS/UNION VISIONING COMMITTEE:

Commissioner Kelly received an email from a board of education employee concerning the lack of sidewalks along Frogtown Road. The city has sidewalks from US 42 along the south side of Frogtown Road, but they end at the city limits. Ryle High School has a large number of students attending school this year and many of them have after school activities and walk home along Frogtown Road, a state owned and maintained highway. Since there are no sidewalks beyond the city limits within unincorporated Boone County, it is a dangerous situation. Mr. Kelly passed the email along to the county and has spoken to County Engineer Greg Sketch. The county has applied for a grant and was turned down. Mr. Burke stated they should take the issue to the Fiscal Court for

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further consideration.

Commissioner Kelly stated that there had been some street signs missing on Sherman Court and they have been replaced. There are still issues with certain yards that need attention.

Mr. Kelly mentioned the City Mowing and Landscaping Contract for Calendar Years 2013 and 2014 are scheduled to be bid out this year. The bid opening will be on November 1, 2012 at 3:00 pm. The bid packet is ready to be picked up.

Mr. Kelly mentioned the buffer landscaping area at the end of Lassing Green bordering US 42. The city had received a complaint that the landscaping contractors are not mowing the entire area. Mr. Kelly will contact the landscaper, Spillman LawnCare. City Clerk Kathy Porter mentioned that the landscaper has some new people working for him and they may not know the distances, as stated on the city's mapping plan for the contract

Commissioner Miller stated that he had some questions concerning the billing from this current contractor. Mr. Miller stated that we pay the contractor a set amount for mowing. Mr. Kelly asked City Clerk Kathy Porter to check the invoices to see if there are any inconsistencies with these billing statements.

CITY ENGINEER'S REPORT: Mr. Burke referenced his detailed City Engineering Report totaling 13 Items 9 of which requires city action, previously provided to the Mayor and City Commission and City Staff.

Mr. Burke stated four (4) of the items requiring city action concern invoicing and payments. The largest invoice is from Len Riegler for \$29,518.60 and is recommended for payment. This was for extra work, previously authorized, on various city streets including Russwill Drive, primarily surface patching and curb repairs. . This work has been completed except for one (1) small pot hole at the end of Aspen Place that was missed. Mr. Burke will inspect and either lower invoice amount by \$100.00 or have the contractor Len Riegler fill the hole.

Regarding Item number 5 (a), the Harmony Estates – Soaring Breezes traffic issues. This item was discussed and handled earlier in the meeting.

Regarding Item number 3, the Union Village Street Signs. The signs have been placed and the invoice is recommended for payment. City Clerk Kathy Porter stated the invoice has already been paid and mailed.

Regarding Item number 5 (d), the sight distances impacted by a tree at Old Union Road and Royal Oak Lane. The tree is located on the property/right-of-way line and the developer Mr. Randy Bacome did not want to have the tree removed as they plan on developing the area adjacent to the trees. The city received quotes from two (2) contractors to trim the tree and remove the debris. Spillman Lawncare was the low bidder for this work at \$1,000. Mr. Bacome will split the cost 50/50 with the city to have them come in and trim both sides of the tree, as acknowledged by vote of the city

Commissioner Miller asked if it was definitely the city's responsibility. Mr. Burke stated that only the part that is within and hanging over the public right-of-way is the city's responsibility.

Commissioner Miller recommended the city to move forward to trim the tree not to exceed \$500. Mr. Burke will coordinate the work.

Regarding Item number 6 (d), Pavement lane striping along Old Union Road(s), Mr. Burke received a quote from Aeromark South Inc., as recommended by the city of Florence. The quote is for about two (2) miles of yellow and white striping along both Old Union Road(s). The quote is for \$4,904.40. Commissioner Adams made the motion to accept the quote and Commissioner Miller seconded the motion. Motion Carried.

Regarding Item number 6 (g), the curb & gutter buckling at three (3) catch basins along Double Eagle Drive, and Melody Drive. The city also received a call from a resident fronting 8945 Richmond Road regarding a broken

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catch basin grate. The city received and accepted a quote for the first three (3) basins from TMS Construction for \$1,640 each. Mr. Burke also recommended the city allow TMS Construction to repair the catch basins and/or grate along Melody Drive and Richmond Road for reasonable costs as well. Commissioner Adams made the motion and Commissioner Miller seconded. Motion Carried.

Regarding Item number 7 (b), the street lighting along Relocated US 42 and Mt. Zion Road. Mr. Burke received a call from Duke Energy's Sandy Connelly and the proposal is not completed as of yet due to Ms. Connelly's hospital stay for some surgery. Mr. Burke suggested that as long as the proposal received does not exceed the original estimated cost that the city could move forward without waiting until the next meeting. Commissioner Adams made a motion to move forward providing the invoice does not exceed the original estimate. Commissioner Miller seconded the motion. Motion carried.

Commissioner Miller asked about a no parking sign that the city was going to have placed on Sycamore Drive. Mr. Burke stated that it had already been installed.

Commissioner Miller asked about the historical marker for Mr. Conrad about placing the marker along US 42. City Clerk Kathy Porter stated the letter had been completed and picked up. No other information was available.

Chief Morgan asked about fire department signages along Old Union Road for the Community Building, formally the old fire house. There are still signs that have fire trucks symbols indicating that it is a Fire Department. If the signs are on Old Union Road, the city should have them removed. Mr. Burke stated he would call BCPWSD to remove the signs.

OLD BUSINESS:

- **Second reading Ordinance No. 2012-004** - An ORDINANCE RELATING TO THE UNION CITY COMMISSION REPEALING IN ITS ENTIRETY CHAPTER 72 OF THE CITY OF UNION, KENTUCKY CODE OF ORDINANCES AND ADOPTING A COMPREHENSIVE BODY OF ORDINANCES FOR VEHICLES STOPPED, PARKED OR LEFT STANDING ON OR OVER ANY CITY ROAD, STREET OR RIGHT OF WAY AND FOR VEHICLES STOPPED, PARKED OR LEFT STANDING ON OR OVER ANY CITY OWNED OR MAINTAINED PARKING LOT OR SPACE. This Ordinance was tabled at this meeting. Attorney Voss stated that he is working with the county attorney's office and was told that if the city repealed their ordinance they would not have anything in place. He is hoping the city can use the counties without having to pass any new ordinances.
- **Second reading Ordinance No. 2012-005** - AN ORDINANCE CREATING A PARKING VIOLATION HEARING BOARD PURSUANT TO K.R.S. 82.600 – 82.640 FOR ENFORCEMENT OF CITY ORDINANCES FOR VEHICLES STOPPED, PARKED OR LEFT STANDING ON OR OVER ANY CITY ROAD, STREET OR RIGHT OF WAY AND FOR VEHICLES PARKED OR LEFT STANDING ON OR OVER ANY CITY OWNED OR MAINTAINED PARKING LOT OR SPACE. This Ordinance was tabled at this meeting. Attorney Voss stated that he is working with the county attorney's office and was told that if the city repealed their ordinance they would not have anything in place. He is hoping the city can use the counties without having to pass any new ordinances.

NEW BUSINESS:

- City Clerk Kathy Porter asked for permission to transfer money from Municipal Road Aid for the street repairs. Commissioner Kelly asked what the amount requested to transfer was. Ms. Porter stated that it was \$46,278.60. Commissioner Adams made the motion to approve the transfer and Commissioner Miller seconded. Motion Carried.

ANNOUNCEMENTS:

The next City Commission Meeting will be held on Monday, November 5th, 2012

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ADJOURN:

No further business came before the Commission. Commissioner Adams moved to adjourn the meeting at 9:00 p.m. Commissioner Miller seconded the motion. **Motion Carried.**

Signed this 5th day of November 2012

APPROVED:

ATTEST:

Don Kirby, Mayor

Kathy Porter, City Clerk/Treasurer