

**CITY OF UNION, KENTUCKY  
SPECIAL BUSINESS MEETING  
MINUTES  
Tuesday, August 13th, 2013**

**CALL TO ORDER:**

Mayor Don Kirby called the Special Business Meeting of the Union City Commission to order at 7:00 p.m. Tuesday, August 13th, 2013.

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

**ROLL CALL:** The following city officials were present:

Mayor Don Kirby  
Commissioner Deanna Kline  
Commissioner Donna Fryman  
Commissioner Ken Heil  
City Engineer Barry J. Burke, PE PLS  
City Clerk Kathy Porter  
City Attorney Greg D. Voss, Esq.

Commissioner Bryan Miller and City Events Coordinator Karen Franxman were not in attendance.

**PLEDGE OF ALLEGIANCE:** Mayor Kirby led the audience in saying the Pledge of Allegiance.

**APPROVAL OF MINUTES:**

All City Commissioners were provided a copy prior to tonight's meeting. Commissioner Heil made a motion to accept the minutes and the motion was seconded by Commissioner Kline. All voted in favor of motion. **Motion carried.**

**ADMINISTRATIVE REPORTS:**

**City Clerk/Treasurer Kathy Porter:** Commissioner Kline moved to accept the Treasurer's Balance Summary Report as of July 31, 2013, and Commissioner Heil seconded the motion. All voted in favor of the motion. **Motion Carried.**

**Bills for Payment:**

City Clerk/Treasurer Kathy Porter presented a copy of bills for payment. Commissioner Heil mentioned moving money from the Municipal Road Aid Fund to cover the bills that are for roadwork within the city. City Clerk/Treasurer Kathy Porter stated that she will move money from that account to pay for the invoices. Commissioner Kline made the motion to move forward with payment of payables and Commissioner Heil seconded the motion. All voted in favor. **Motion Carried.**

**PLANNING AND ZONING REPORT:** Mayor Kirby stated that there are no items on the agenda that affect the City of Union.

**ECONOMIC DEVELOPMENT COMMITTEE REPORT (EDC):**

Commissioner Kline stated that they had a meeting prior to the business meeting and they will be working on having a developer open house. Boone County Planning and Zoning Commission have been receiving calls showing interest. And they feel this is a good way for developers to come in and get questions answered. The next scheduled meeting is September 11<sup>th</sup>.

**CITY EVENTS COORDINATOR:**

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

The next scheduled city event is the 4<sup>th</sup> Annual Fall for All event, which will be held on October 19<sup>th</sup>, 2013 and will run from 12:00 pm to 8:00 pm. At 8:00 am there will be a 5k Soldier Run which is a fundraiser for the city's Adopt-

A-Unit.

Fundraisers at the Fall for All event and prizes include a seven (7) day car rental sponsored by Kerry Toyota and a Quilt Raffle. The quilt was made and donated by Elizabeth Peck and Karen Maze.

The city is working with Perfect North Slopes to once again have discounted ski vouchers for the winter season.

The Adopt-A-Unit has received word that all of our adopted soldiers have returned safely home from Afghanistan.

**Union Cares Program:** The Union Cares Program will not be collecting anything specific for the month of August. We are working with the Boone County School system to get a list from the schools resource departments on what they are in need of. However, anyone can still drop off items at the Union City Building and city staff will make sure they get donated to an organization in need.

**CITY ENGINEER'S REPORT:** Mr. Burke referenced his detailed City Engineering Report totaling 12 Items with five (5) attachments. Mr. Burke stated that there are six (6) items that require formal City Commission Action in his CE Report and any others, as noted in his Report from discussions, which may require same.

Regarding Item Number 2, the full asphalt street resurfacing project near Kroger's at Braxton Road and Richmond Road, including wheel chair ramps, this work has been completed, but Mr. Burke was hoping to extend a sidewalk into the Kroger Parking Lot from Braxton Road. He stated that has tried for over one (1) year, to get permission from three (3) separate Kroger's officials to complete this project, but has been unsuccessful.

Attorney Voss asked if the handicapped residents have access to the Kroger parking lot via the ADA standards. Mr. Burke stated that the street intersections at the entrance and at the Library include ADA ramps. However, the problem is the absence of a separate sidewalk along the access drive from Braxton Road to the parking lot which forces the handicapped to share the roadway rather than a separate sidewalk for increased safety. Mayor Kirby asked Mr. Burke to meet with him after the meeting and he would see if he could contact someone at Kroger's to help resolve the issue.

Regarding item number 3, the Union Budget FY 2013-2014, Mr. Burke stated that he had spoken with Public Works Commissioner Bryan Miller about some changes to the proposed budget including reductions for a salt dome (now not needed), a paved parking lot for the Community Center, recent lower bids received for street repairs, etc. He stated that the estimated amount for the Public Works items have been reduced from \$376,000 to \$329,620, a significant savings.

Mr. Burke discussed Item 5. (a), involving the Mt. Zion Road / KY 536 future highway project and the street lighting options per a KYTC request. The highway department will pay 100% for the one (1) of two (2) of the Duke Energy standard lighting systems, from the Round-about to Round-about approximating a length of about 2000 feet for about 70 lights, as noted in the GRW Engineers design plan. The city has a choice of choosing one (1) of the two (2) Duke Energy standards at no extra cost or a separate city owned decorative lighting system for an additional cost. The design plans for the highway is complete.

Mr. Burke estimated the cost of the decorative system to be in the range of \$4,500 per light (e.g., Hadco System in Covington). If the city chose this option they would be responsible for the permanent or long term maintenance of this lighting system as well as the energy costs.

Mayor Kirby asked what the next options for the city would be. Mr. Burke stated he had contacted the KYTC consultant GRW Engineers and Duke Energy for costs. Both GRW and Duke are working to provide more detailed cost information, not yet determined for this meeting. Mayor Kirby suggested that sitting down with the parties including Brian Beecher with Duke Energy and certain city officials to decide which lighting system would be the best option. Mr. Burke acknowledged he would make the contacts for such a meeting.

Mr. Burke referred to Item 8 (b), the Burleigh Lane No-Parking Signage problem. A new resident has questioned the No-Parking Signs located on both sides of the street. Regarding some background, the street is a part of two-(2) separate subdivisions; the first four (4) lots north of Bayswater Drive are part of Hempstede constructed about 15 years ago; and, the remaining lots are within Hampshire, recently completed. For some reason, the

public water main crosses the street; therefore there are fire hydrants and fire lanes on both sides of the street prohibiting any on-street parking with the existing signage, as posted. Regarding previous discussions for restricting parking for certain distances to a fire hydrant, Mr. Burke has advised that there would not be enough room for the fire department's equipment in a fire lane on at least one (1) side of the road.

Mr. Burke's previous, recommendation was to change the names for the two (2) existing signs; the first sign at 9915 Burleigh Lane as follows: a) change the sign from: "No Parking This Side" to "No Parking This Side to Address 9927"; and, b) the second sign at 9926 Burleigh Lane from: "No Parking Fire Lane" to "No Parking This Side Here to Bayswater". Mr. Burke advised that while there are more expensive options, his intent is to remedy the problem permitting parking along one (1) side of two-(2) portions at the street at the least possible cost.

Mayor Kirby advised that Chief Morgan with the Union Fire Department has indicated that as long as there is the fifteen (15) feet of no parking space away from the fire hydrant then the Fire Department would not have any issues.

Mayor Kirby stated that the signs that indicated a house number would be confusing to some residents. Mr. Burke stated that he would work with the Boone County Sign Department (BCPWSD) to resolve this issue.

Mr. Burke discussed Item 13, in regards to updating the Storm Water Pollution Prevention Plan (SWPPP). From an earlier SD1 request, Mr. Burke and Commissioner Miller met with Darren Martin from SD1 who requested an update of the 2012 Union SWPPP for 2013. Per the meeting, Mr. Burke has updated the SWPPP for 2013 and distributed it to the commissioners for review. Mr. Burke stated that this SWPPP update, to be formally submitted to SD1, is based on a master document used by the approximate 30 co-permittees and is comprised of about 60 pages, specially updated including conditions or plans for the City of Union.

Mayor Kirby asked if any of the commissioners had had a chance to review the document. Commissioner Heil stated that he would like to review it more thoroughly. Mayor Kirby asked the commissioners to review the document and discuss again for action in September.

**PUBLIC WORKS:**

Commissioner Bryan Miller was not in attendance.

Ms. Noreen Morgan a resident from the Villas at Fowler's Creek asked about the possibility of the Union Kroger moving and building a Marketplace. Mayor Kirby stated that it has been discussed and they plan to speak to the Boone County Planning Commission.

**OKI (Ohio-Kentucky-Indiana) REGIONAL COUNCIL OF GOVERNMENTS BOARD OF TRUSTEES:**

Commissioner Fryman stated that at this time she did not have anything to report. The next scheduled meeting is Thursday July 11.

**CITIZENS WISHING TO BE HEARD:**

Mr. Kurt Lowe addressed the commission concerning issues that he has faced concerning the Boone County Sheriff's Department and the County Courthouse. Mr. Lowe stated that he is not the only person this has happened to. He plans to host a public meeting in the future for residents to come and ask questions, voice their complaints or just listen.

Mr. Lowe stated that his issues with the Boone County government began when he was having his house built in the Arbor Springs Subdivision (Arbor Springs Blvd.). He was approached by neighbors asking him if he had any issues with his home. Mr. Lowe, after receiving the questions from neighbors brought in a private inspector who found problems. Mayor Kirby asked who the builder was. Mr. Lowe stated it was Arlinghaus Builders (Mr. Bob Schroeder is the manager). After the private inspector came, Mr. Lowe petitioned to have the Boone County Building inspector come and inspect his home. Mr. Lowe claims that the inspector found violations and noted them. Mr. Lowe went to the Boone County Building Inspector's office to view the inspection, but was told that was he was not allowed to view them. After some time he finally got to see the report, but the violation was not there. The Boone County Building inspector told him the violation did not exist. Mr. Lowe stated that he had a copy that he received and then the report appeared.

Mr. Lowe said that after the several violations found, he contacted the builder who he claims stated that he would not make the necessary repairs. Mr. Lowe contacted Jim McNair from the Cincinnati Enquirer who came and interviewed him and a couple of neighbors for an article. Mr. McNair contacted Arlinghaus Builders who was told a story would be done. After the reporter contacted Arlinghaus Builders a contractor showed up at Mr. Lowe's home. Mr. Lowe let him in and gave him the list of items that needed completed. After receiving the list Mr. Lowe stated the contractor became combative. Mr. Lowe stated he went outside and asked another person there the name of the contractor he was told that it was Bob Schroeder. Mr. Lowe then asked the contractor to leave. Mr. Lowe stated that Mr. Schroeder copied down the tag number of the vehicles he owned and left. Mr. Lowe stated that most of the repairs were made, but not all.

Mr. Lowe stated that approximately a month later a lady who is the wife of one of the Arlinghaus Contractors called 911 and gave the tag number and description of one of his vehicles and said a white male tried to run her down in the parking lot of Kroger's and then spit on her. Mr. Lowe stated that he was in Alabama at the time. About five months later he was driving home and a sheriff's deputy (who Mr. Lowe states left his assigned post to be in the area) came to his home and asked who the home owner is. Mr. Lowe stated that it was his other half. Mr. Lowe started to walk into his home, and the deputy called to him and said he needed to talk to him. Mr. Lowe stated that he wanted to put his bags that he was carrying in his home when the deputy rushed over to him. Mr. Lowe stated that the deputy had a pen in his hand and it stabbed in his arm. Mr. Lowe stated that the deputy at that time made an exaggerated move like he was being pulled into the home. Mr. Lowe stated that he asked the deputy what he was doing there and the deputy stated he needed to talk to him. Mr. Lowe stated that he started a digital recorder at this time to record the confrontation. Mr. Lowe stated the officer asked him to put his hands behind his back. Mr. Lowe asked the homeowner (who was present) if she had invited the officer into the home and she stated that she had not. Mr. Lowe told her to ask him to leave, at this time Mr. Lowe stated that he was struck in the head by the officer. Mr. Lowe stated that he was struck two more times. Then Mr. Lowe stated that he was tasered. Mr. Lowe stated that he felt some pain in his heart and was telling the officer this and the officer tased him again. Mr. Lowe stated that during this time, Boone County dispatch was trying to locate the officer. Another Boone County Deputy showed up at this time. Mr. Lowe stated at this time the deputy's car was moved to his driveway. Mr. Lowe stated that he was then brought to the ambulance that was waiting outside. He stated that the deputy then went back in to the home to remove the recorder. Mr. Lowe stated that the homeowner had also started a recording that neither knew was going. Mr. Lowe stated that they still did know at this time what the officer was doing there. Mr. Lowe went to the hospital and had still not been told what he was being charged with or had his rights read to him. Mr. Lowe stated that he had got the MDT messages between the officer and the supervisor on duty at this time. Mr. Lowe stated the messages stated to take the picture to the witness so that she will be able to identify the subject later.

Mr. Lowe was processed at the jail and was bonded out. He obtained counsel and was not told what he was charged with until his arraignment. According to Mr. Lowe, about three months after arraignment the charges were changed to fleeing and evading in a motor vehicle. A year and half later it was changed to fleeing and evading pedestrian. Mr. Lowe stated that his attorney started to turn on him, and withdrew from being his counsel.

At the trial Mr. Lowe's witness was forced to sit out in general public when she should have been sequestered. He stated that one of the jurors kept taking off his badge and sitting and talking to her. Fiscal Court Clerk at the time Mr. Lewis Kelly told the judge on the case that he had witnessed the juror talking to the witness. The judge spoke to each of the jurors and but none of the jurors stated they spoke to the witness. The judge declared a mistrial. The judge on the case was Jillian Coleman.

After the mistrial was declared Mr. Lowe gathered all of his receipts from his out of town trip. The homeowner (Sara) also had been out of town. Mr. Lowe took his evidence to the judge, who then recused the county attorney and had the trial moved to Carroll County. The judge signed the order and the Circuit Court Clerk is supposed to file the order with the County the venue has been changed to. However, this was not done.

Mr. Lowe received a letter from the Attorney General's office stating the new special prosecutor for the case would be Kenton County Attorney Gary Edmonson.

Mr. Lowe stated that he received a copy of the file and the court order was not in the file. Mr. Lowe was told by another officer that the Attorney General would have a copy of the file. Mr. Lowe asked for a copy and was

received.

Mr. Lowe stated that a new trial was coming up. Mr. Lowe stated that he was sent a letter that his case was postponed. Mr. Lowe stated that he printed the docket out for the day the trial was supposed to be and was not on the docket. He in meantime went to Alabama to visit his sick mother. He was told that the trial went on without him and he was convicted. Mr. Lowe stated that in 1993 the Supreme Court stated that it was illegal to have a trial without the defendant present.

Mr. Lowe turned himself in after conviction and started serving his twelve (12) month mandatory sentence. Mr. Lowe stated that while he was in jail he was compiling information and the jailors were sending it to the county attorney. After five months of being in jail Mr. Lowe went before a judge who lied to him about what he knew about the case. Mr. Lowe filed a motion to have the judge removed and was successful in his attempt. Mr. Lowe went before a second judge and told him that he would file federal charges and was released.

After his conviction Mr. Lowe has trouble finding employment.

Mayor Kirby commented on how much Mr. Lowe had been through and that he had no idea this was out there. Mr. Lowe stated that Commissioner Miller and Senator Schickel had been spreading rumors. Mr. Lowe has filed an ethics complaint on Senator Schickel. Since the complaint Senator Schickel has made comments to him and making gestures at him.

Mr. Lowe is trying to speak at the next Boone County Fiscal Court meeting.

#### **OLD BUSINESS:**

- ❑ **Second Reading ORDINANCE NO. 2013-003:** - AN ORDINANCE OF THE CITY OF UNION, KENTUCKY ESTABLISHING A NON-EXCLUSIVE FRANCHISE FOR THE USE OF THE PUBLIC STREETS, ALLEYS AND OTHER PUBLIC GROUNDS OF THE CITY FOR THE TRANSMISSION OF EITHER OR BOTH NATURAL **GAS AND ELECTRICITY** THROUGH AND FOR CONSUMPTION WITHIN THE CITY; AND PROVIDING THE TERMS THEREOF. Commissioner Heil made motion to approve, Commissioner Fryman seconded the motion. All voted in favor of the motion. Motion Carried.
- ❑ **Second Reading of ORDINANCE NO.2013-008** – AN ORDINANCE ACCEPTING THE BID OF RUMPKE OF KENTUCKY, INC. FOR WASTE COLLECTION IN THE CITY OF UNION, KENTUCKY COMMENCING ON JULY 1, 2013 THROUGH JUNE 30, 2015 AND AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH RUMPKE OF KENTUCKY, INC. IN SUPPORT OF SAID BID. Commissioner Kline made a motion to approve and Commissioner Fryman seconded the motion. Commissioners Kline, Fryman, and Mayor Kirby voted in favor of the motion. Commissioner Heil voted against the motion. Motion carried by a vote of 3-1.
- ❑ **Second Reading of ORDINANCE NO.2013-009** – AN ORDINANCE OF THE UNION CITY COMMISSION REPEALING IN ITS ENTIRETY ORDINANCE 2000-009 WHICH WAS PASSED ON DECEMBER 11, 2000 AND CODIFIED AS CHAPTER 72 OF THE CITY OF UNION, KENTUCKY CODE OF ORDINANCES. Commissioner Kline made a motion to approve and Commissioner Fryman seconded the motion. All voted in favor of the motion. Motion Carried.
- ❑ **Second Reading of ORDINANCE NO.2013-010** – AN ORDINANCE APPROVING THE USE OF THE BOONE COUNTY PARKING VIOLATION HEARING BOARD FOR ALL PARKING CITATIONS ISSUED WITHIN THE BOUNDARIES OF THE CITY OF UNION, KENTUCKY. Commissioner Heil made the motion to approve and Commissioner Kline seconded the motion. All voted in favor. Motion Carried.

#### **NEW BUSINESS:**

- ❑ Discussion of the winter road contract for snow removal. Commissioner Heil addressed the commission concerning the previous snow removal contract. Commissioner Heil stated that he would like to add the

road de-icing to part of the bidding process. And he would like to add the Mayor or Commissioner of Public Works as a contact in the event that the City Clerk is not able to be reached. Commissioner Heil asked to add that salt usage to not exceed 1200 lbs. per lane mile which varies. Commissioner Heil stated that salt usage could harm the infrastructure.

Commissioner Fryman agrees, but feels that the 1,200 lbs. is still too much, because the state does not use that much salt neither does the City of Florence. Commissioner Heil stated that this could be adjusted but he would like to do more research. Mayor Kirby suggested that we could put some verbiage in the document that says we will work with the contractor to define a more accurate application level. Commissioner Heil stated that the city put it in the bid documents that salt storage is the responsibility of the contractor. Commissioner Heil also stated that we would need to have the location of the salt storage.

Commissioner Fryman stated again that she feels that 1,200 lbs. per lane mile is too much and she would not agree to it. Commissioner Kline asked what she felt would be appropriate. Commissioner Fryman stated that the state only puts 500 lbs. per lane mile on the state highways. Commissioner Kline stated that we could not compare the city streets to those of the state. Commissioner Fryman stated that the City of Florence only puts 1,000 lbs. per lane mile on their streets.

Attorney Voss stated that the commission does not have to vote on the changes. They will just need to make the changes to the bid documents.

Mayor Kirby suggested that the city not limit the amount of pounds. Attorney Voss stated that they need the limits the commission needs agree on the amount.

Noreen Morgan stated if the city contractor uses less salt then they would need to come out more often only costing the city more money.

Commissioner Kline asked what the county puts down. Mayor Kirby stated that we would need to get with the county to see.

Commissioner Heil asked how much time is needed before the bids need to go out. Mayor Kirby stated that we could meet again on this issue at the September meeting.

- **RESOLUTION NO. 2013-015** - A RESOLUTION AUTHORIZING THE MAYOR FOR THE CITY OF UNION, KENTUCKY TO EXECUTE THE AGREEMENT FOR ENGINEERING SERVICES BETWEEN THE CITY OF UNION, KENTUCKY AND INFRASTRUCTURE & DEVELOPMENT ENGINEERING, INC. Commissioner Kline has not had a chance to look at the agreement. Mayor Kirby asked for a motion to table the resolution until the September meeting. Commissioner Kline made the motion and Commissioner Fryman seconded the motion. All voted in favor. Motion Carried.
  
- **First Reading of ORDINANCE NO. 2013-011** - AN ORDINANCE LEVYING AND FIXING THE TAX RATES OF THE CITY OF UNION, KENTUCKY, FOR THE FISCAL YEAR 2013/2014; 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 Heil made the motion to accept the Real tax rate at .0216 and for Tangible at .0188 and Commissioner Fryman seconded the motion. All voted in favor. Motion Carried.

Mr. Kurt Lowe asked if the tax money is going to Boone County. Mayor Kirby stated that the Union tax money does not go to the police.

#### **ANNOUNCEMENTS:**

The next regular business meeting is scheduled for Monday, September 2, 2013 at 7:00 PM, this is a holiday, and therefore, the next meeting will be held on Tuesday, September 3, 2013 at 7:00 PM.

**ADJOURN:** With no further business coming before the Commission, Commissioner Kline moved to adjourn the meeting at 8:51 p.m. Commissioner Fryman seconded the motion. All voted in favor. **Motion Carried.**

Signed this 3rd day of September 2013

**APPROVED:**

**ATTEST:**

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Don Kirby, Mayor

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