

**CITY OF UNION, KENTUCKY
SPECIAL BUSINESS MEETING
MINUTES
Tuesday, September 9th, 2014**

CALL TO ORDER SPECIAL BUSINESS MEETING: Mayor Pro Tem Bryan Miller called the Special Business Meeting of the Union City Commission to order at 7:00 p.m. Tuesday, September 9th, 2014.

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

ROLL CALL: A quorum was present:
Mayor Pro-Tem – Bryan Miller
Commissioner - Deanna Kline
Commissioner - Ken Heil
Commissioner – Donna Fryman

Also present was the following:
City Engineer - Barry Burke, PE PLS
City Attorney - Greg Voss, Esq.
City Clerk/Treasurer – Kathy Porter

Absent:
Mayor – Don Kirby

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Miller led the audience in the Pledge of Allegiance to the flag.

APPROVAL OF MINUTES:

All City Commissioners were provided a copy of the minutes of the Special Business Meeting from August 8th, 2014, prior to tonight's meeting. Commissioner Heil made a motion to dispense with the reading of the Special Business Meeting Minutes from August 8th, 2014, and the motion was seconded by Commissioner Kline. **Motion carried.**

ADMINISTRATIVE REPORTS:

City Clerk/Treasurer Kathy Porter: Mayor ProTem Miller stated that City Clerk / Treasure Kathy Porter has asked for permission to move/transfer \$91,620 from the Municipal Road Aid Fund to Business Checking to pay an invoice from Len Riegler Blacktop, Inc. for street repairs. Commissioner Kline made the motion to move/transfer the funds and Commissioner Fryman seconded the motion. All voted in favor. **Motion carried.**

Mayor Pro Tem Miller stated that City Clerk/Treasurer Kathy Porter has asked for permission to transfer \$17,100 to a separate Money Market Account or a CD for the Cemetery Trust. Commissioner Kline made the motion to move the money to a Money Market Account or a CD and Commissioner Heil seconded the motion. All voted in favor. **Motion carried.**

BILLS FOR PAYMENT:

Commissioner Heil made the motion to pay the bills, as received. Commissioner Fryman seconded the motion. **Motion carried.**

PERSONS WISHING TO SPEAK:

Ms. Kathy Sinclair lives at 987 Lakeway Ct. in the Hempsteade Subdivision. Ms. Sinclair stated that recently the street beside hers (Lakepointe Court) was completely resurfaced. Ms. Sinclair stated her street is one of the first streets to be built on within the subdivision in 1991. Her street is need of further repair. She had thought when Lakepointe Court was resurfaced hers would be next. She contacted City Clerk/Treasurer Kathy Porter who told her that her street was scheduled for only concrete slab replacements. She stated that she waited a couple of days and noticed that there was three (3) small places that were marked for replacement. She called back and was given the number of the City Engineer Mr. Barry Burke. Mr. Burke suggested that Ms. Sinclair attend a city meeting.

Ms. Sinclair has talked to her neighbors and presented the commission with a petition to have her street resurfaced or something done to it this year. Mayor Pro Tem Miller stated that the city has a capital improvement program in place for the repair of the streets. City Engineer Barry Burke stated the streets are prioritized as to degrees of deterioration. Some major slab repairs on this street was performed in 2010. When the total 98 or so streets were reviewed to be repaired this year, the decision was to do repairs only to Lakeway Ct. and to fully resurface Lakepointe Ct. Mr. Burke stated that at this point Lakeway Ct. is not ready for resurfacing, however, it may be in the spring of 2015 when he reviews the 98 streets again.

A resident asked what the cost would be to resurface Lakeway Court. Mr. Burke stated that it would be approximately \$13,000 based upon the 2014 public bids. Mr. Sinclair stated that if the road doesn't get resurfaced this year then it would deteriorate further and cost more to repair. He would like to get a date of when it would be resurfaced. Mr. Burke advised that any new resurfacing work would require time for bid specs and a public bid and with the asphalt plants closing around November 15th, no further resurfacing could be done this year.

Another resident who lives on the street stated large pieces of concrete had been cut out and replaced and which creates more cracks. Only some of the sections have been spray painted for replacement. But there are some other areas having major erosion areas in the middle of street that are not marked to be replaced by the contractor. He would like for Mr. Burke to come back to street to take another look at the street.

Commissioner Donna Fryman asked Mr. Burke if the city were to repave another street in 2014 if Lakeway would have been repaved. Mr. Burke stated that he only had the two (2) streets documented for full resurfacing. However, if the city directs, Mr. Burke can meet with the contractor to review the added cracks and repair them. And then following another review again in the spring with the other 98 streets to determine whether a full resurfacing for Lakeway Court is needed in 2015.

A resident asked what the repairs would cost as opposed to resurfacing. The cost for repairs, as planned in 2014 would be \$1,500 as opposed to an extra \$13,000 to resurface.

PLANNING AND ZONING REPORT: Mr. Jim Longano was not in attendance. Commissioner Heil stated there was a hearing concerning a restaurant on Old Union Road. The restaurant has since made necessary changes to the building and it has now been approved.

UNION COMMUNITY BUILDING/UNION COMMUNITY THEATER DATES:

Commissioner Heil stated that on the current production for the Union Community Theater, the group would like to add three (3) days to the end in order to take down the stage safely.

The Union Community Theater also requested to use the Community Building directly after the Santa Breakfast. This will be for a fundraiser.

The Union Community Theater has also requested dates for 2015. The first play will require use of building in January 5th through March 24th. From January 5th through February 12th, it would be week days for rehearsals. The dates the Community Building would be unavailable for rental are from February 16th through March 24th.

The second play dates would run from July 13th through October 20th. From July 13th through August 27th it would be week days for rehearsals. The Community Building would be unavailable for rental from August 31st through October 20th.

Commissioner Fryman stated that if the city is not willing to give the building free to everybody then they shouldn't do it for anyone. She stated the Union Community Theater is a good program. She stated that this a business that is listed on Secretary of State's website.

Commissioner Heil stated that this is something the next commission can make a decision on, but for right now the Union Community Theater needs some lead time in order to schedule their performances.

Commissioner Kline stated she agrees that the UCT should not get the building free, but that it belongs in a Community Building. She thinks that the city and UCT should come together and come to an agreement through a contract.

Mayor Pro Tem Miller suggested meeting with the Union Community Theater. A resident stated if any group that comes together and declares themselves a community group then they should have the same consideration.

Commissioner Heil proposed the commission approve the first production dates and in the meantime the commission work with the UCT to come to ideas on how to handle the renting of the Community Building. Commissioner Kline seconded the proposal. Commissioners Kline and Heil and Mayor Pro Tem Miller voted in favor of the proposal and Commissioner Fryman voted against the proposal. Proposal carried with a 3-1 vote.

Commissioner Heil made a motion to allow the Union Community Theater to use the Community Building after the Santa Breakfast in December. Commissioner Kline seconded the motion. Commissioners Kline and Heil and Mayor Pro Tem Miller voted in favor of the motion and Commissioner Fryman voted against. Motion carried with a 3-1 vote.

Commissioner Heil made a motion to allow the Union Community Theater to have three (3) extra days after their October show to strike and Commissioner Kline seconded the motion. Commissioners Kline and Heil and Mayor Pro Tem Miller voted in favor of motion and Commissioner Fryman voted against. Motion carried with a 3-1 vote.

ECONOMIC DEVELOPMENT COMMITTEE REPORT (EDC):

The September EDC meeting was held on September 9th, 2014, prior to the Special Business Meeting. Commissioner Kline gave an update on KY 536/Mt. Zion Road Project, the State Highway Department has purchased five (5) more parcels since the August meeting. They have purchased a total of 128 parcels. Currently there are four (4) lawsuits pending. The State Highway Dept. is planning on purchasing a total of 176 parcels.

COMMISSIONER OF PUBLIC WORKS:

Commissioner Bryan Miller stated the city received another bid on the maintenance of the heating and air conditioning on both city owned buildings. The quote came from Steve's Heating and Cooling and was for a total of \$765 per year. The city had previously received a quote for \$640 per year from BME Mechanical & Electrical. City Clerk Kathy Porter stated the city usually uses Morris Heating and Cooling and they came in the day before and would still like to give the city a proposal. Mayor Pro Tem suggested to table this until we receive the quoted from Morris Heating and Cooling.

Mayor Pro Tem Bryan Miller stated that there is a sidewalk in front of the Union Presbyterian Church that has buckled. Attorney Voss stated that it is state policy to not repair sidewalks. The cost to the city to repair the sidewalk by R.E.B.T Construction Co. would be between \$300 and \$400. Mayor Pro Tem Miller asked for a motion for the city to move forward with repairs to the sidewalk. Commissioner Fryman asked if the city is responsible for all sidewalks within the city. Mayor Pro Tem Miller stated if the sidewalk in front of your home is damaged and someone gets hurt then the property owner is responsible. City Engineer Burke suggested the city could pass an ordinance to make the property owner responsible then it could relieve itself of some liability, however the City Attorney must be involved. Commissioner made a motion to repair the sidewalk and Commissioner Kline seconded the motion. All voted in favor. **Motion Carried.**

CITY ENGINEER'S REPORT: Mr. Burke referenced his detailed City Engineering Report totaling eight (8) items, some requiring city actions. Other issues addressed not making the formal report included denial of a no-parking sign fronting a resident's driveway along Lakeway Court, which did not meet the city's ordinance; pavement markings; and, a sink hole near a storm water catch basin near the Aspen Place, Bayberry Drive intersection within Lassing Green.

Regarding Item 3 (b), the street intersection lighting for pedestrian safety at re-located US 42 and Frogtown/Double Eagle Roads. The city has finally received a revised plan for these lights. Originally, the city was not going to be allowed to put lights up on both sides of the state highway. As Mr. Burke understands it, the city can place three (3) new lights on two (2) existing poles and a new one new pole at the northeast intersection. The permit should be received soon and then work with Duke Energy on an agreement. Once the agreement is signed then Duke will work with their contractor to place the lights on the poles and hopefully by December, the safety lights will be in place

Regarding Number 5, the Union Street Repair Projects along Indian Hill and Lakepoint Drives. Len Riegler Blacktop,

Inc is finished as the work was observed as acceptable. It was recommended to pay 90% of the contract amount. The city will hold a 10% retainage for thirty (30) days. Also during the repairs, there were two-(2) resident concerns of drainage overtopping driveways lower than the street. The city added a change order to correct the drainage problems.

Commissioner Fryman asked Mr. Burke when the city's streets will be inspected or observed for repairs in the spring. Mr. Burke stated he will perform a city-wide drive-through in the spring perhaps in March or April to assess existing conditions, which must be approved by the city at a regular meeting. Plans and a legal ad next must be prepared. The asphalt plants open in March, and the city needs to go through the public advertising therefore it could be early summer before any major repairs can be made.

Commissioner Fryman asked about the storm sewers, if Mr. Burke inspects them as well. Mr. Burke stated that 98% of the storm sewers have been transferred to the Sanitation District 1, with the exception of the grates in the street. Commissioner Fryman stated there is one (1) on her street (Golden Pond) that is sinking. Mr. Burke stated the city needs to call SD1 to have them inspect the storm sewer. Commissioner Fryman stated that SD1 has repaired a couple of other similar ones on the street.

EXECUTIVE SESSION: None needed.

ITEMS FOR CONSIDERATION:

OLD BUSINESS:

Ordinance No. 2014-014
(Second Reading)

AN ORDINANCE LEVYING AND FIXING THE TAX RATES OF THE CITY OF UNION, KENTUCKY, FOR THE FISCAL YEAR 2014/2015; 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. Mayor Pro Tem Miller stated there is no increase in taxes. Commissioner Kline made a motion to approve the ordinance. Commissioner Fryman seconded the motion. All voted in favor. **Motion Carried.**

Ordinance No. 2014-015
(Second Reading)

AN ORDINANCE OF THE CITY OF UNION, KENTUCKY AMENDING CHAPTER 72A REGARDING THE REGULATION OF PARKING ON THE CITY'S PUBLIC STREETS OR WAYS WITHIN THE CITY OF UNION, KENTUCKY. Commissioner Heil made the motion to approve Commissioner Miller seconded the motion. All voted in favor. **Motion Carried.**

NEW BUSINESS:

Contract for Engineering Services with Infrastructure Development & Engineering, Inc. (IDE)/Barry J. Burke, P.E., P.L.S, the existing contract is set to expire on September 30, 2014. Mr. Barry J. Burke PE has worked with the city for the past ten (10) years. Mr. Burke stated that after listening to the commission discuss concerns concerning budget and quality; he feels that he could save the city money by stepping away from the firm and become a Part-Time Independent Contractor for the city. Since Mr. Burke has already retired as a member of the Kentucky Retirement System (CERS), he stated that he could work as an independent contractor and not exceed a maximum of 100 hours per month. The only issues he would have is to provide his own liability insurance and mileage to be paid. The city would not be responsible for any other benefits. Mr. Burke stated that the city could either move forward with a contract with him or extend the contract with IDE for a month or so.

Attorney Voss stated that he did not have the agreement with IDE in front of him, however, he thinks that there may be a thirty day clause that it will automatically roll over. Also the city commissioners have recently created an employee position of City Engineer, therefore he would still part-time but not be an independent contractor in the future.

Commissioner Fryman stated that she feels the commission should wait until after the November election to make this decision, the same as they chose to do with the City Administrator / Manager.

Commissioner Fryman also stated that she would like to review the job description more prior to making a decision. Commissioner Kline asked where mileage is charged from. Mr. Burke stated that it would be from his home. City Clerk stated as an employee that the mileage must be calculated from your place of employment, (i.e. the Union City Building).

Mayor Pro Tem Miller suggested the city extend the contract until the end of the year on a month-to-month basis. Commissioner Kline suggested the city extend the contract through October. Commissioner Fryman stated that Mr. Burke has been here for ten (10) years and probably knows the city better than anyone the city could hire, but she still feels the new mayor and commission have a say in who is hired to provide engineering services to the city.

Attorney Voss stated that the contract expires, however, they can re-new the contract. However, it is not known if IDE will agree to re-new the contract for a month-to-month basis. Or the city could enter into an agreement with Mr. Burke. Commissioner Fryman stated that she did not feel that Mr. Burke should quit his job without the certainty of a job with the City.

Commissioner Kline asked what the differences would be if Barry Burke PE separates from IDE. Attorney Voss stated that we could initiate a contract with Barry J. Burke PE for the next three (3) months. Attorney Voss stated the city could enter into a short-term contract with Mr., Burke as the City Engineer. And then appoint someone to the position. Attorney Voss stated that the person must be hired through an ordinance which requires two (2) readings. And Mr. Burke can work as an independent contractor until the position is filled.

A member of the audience asked if the position needs to be advertised and was told that the city is not required to advertise for any positions.

Mr. Burke's hourly rate for the city could be \$85/hour as opposed to the \$110/hour that is charged by IDE. Mr. Burke stated the overall hours on a weekly basis varies from week to week and in general has approximated not more than 50 hours/month on average within the last two-(2) years. Commissioner Fryman asked if the city would need to supply the worker's compensation insurance. Commissioner Fryman was told yes that the city would have to deduct or supply the worker's comp after the position is filled as an employee per an ordinance. She feels that the city would not be saving that much money with the city having to supply the insurance.

Commissioner Fryman stated that with the employee status, Mr. Burke could come to the city and ask for a raise throughout the year, while the compensation for IDE has not changed for the past four (4) years. Mr. Burke stated that IDE had asked for an increase in the rates, however, he has advised IDE to keep the rates the same in order to keep the contract with the city. Attorney Voss stated that the city had set a new cap of \$50,000 per fiscal year within the budget.

Attorney Voss asked Mr. Burke if he had spoken to IDE about them providing service throughout the next several months. Mr. Burke stated he felt they would agree to continue providing the service.

Mr. Burke stated that he generally puts in approximately 50 hours per month and the city has paid IDE \$110 per hour.

Commissioner Kline stated she is not opposed to hiring a City Engineer prior to the new commission.

Attorney Voss suggested that the city could agree to pay \$4,166.00 per month over the next three (3) months. In the interim, the city could have an ordinance that would hire Barry J. Burke PE in October with the second reading in November as a future employee. Commissioner Kline agreed with Attorney Voss and stated that if that's not what the commission wanted then they should enter into a contract for at least the next four (4) months in order for the new commission to have a month to review and not be forced into making that type of decision on their first meeting.

Attorney Voss stated that he would prepare an ordinance that would have Mr. Burke be an employee for the city of Union effective on January 1, 2015. And Mr. Burke would agree to a three (3) month period (Oct. – Dec.) and would be paid \$4,166 per month and agree to work up to 50 hours per month on a contractual basis.

Commissioner Heil made a motion to offer Mr. Barry J. Burke PE a contract to provide engineering services for the city of Union, KY for a period of three (3) months starting October 1st and ending December 31st, 2014 in the amount of \$4,166 per month, not to exceed fifty (50) hours per month. Commissioner Kline seconded the motion. Commissioners Heil and Kline and Mayor Pro Tem Miller voted in favor of the motion. Commissioner Fryman voted against the motion. Motion carried with a 3-1 vote.

The Technical Design Review Committee. City Clerk Kathy Porter mentioned that in Section 2560 of the Boone County Zoning Regulations it states that a member of the Union City Commission shall serve as an adjunct committee member when a Design Review application is submitted for property located within the city limits and the property is zoned Union Town Center (UCT). The Committee's vote will be sent in the form of a recommendation to the full Planning Commissioner. Mayor Pro Tem Bryan Miller asked the Commission if any of them would like to volunteer to be appointed to this committee. Commissioner Heil stated that he would be willing to sit on the committee.

ANNOUNCEMENTS:

The next regular city business meeting is scheduled for Monday, October 6th, 2014.

ADJOURN:

With no further business coming before the Commission, Commissioner Fryman moved to adjourn the meeting at 9:00 p.m. Commissioner Kline seconded the motion. All voted aye. **Motion carried.**

Signed this 6th day of October, 2014

APPROVED:

ATTEST:

Don Kirby, Mayor
Bryan Miller, Mayor Pro Tem

Kathy Porter, City Clerk/Treasurer