

**CITY OF UNION
Business Meeting
August 7, 2017**

Regular Business

The meeting was called to order at 7:00 PM on August 7, 2017 by Mayor Larry Solomon.

Pledge of Allegiance

Mayor Solomon led all attendees in the pledge to the flag.

Roll Call

A quorum was present: Mayor Larry Solomon, Commissioner Eric Dulaney, Commissioner John Mefford and Commissioner Jeremy Ramage.

Also present:

City Attorney-Greg Voss, Esq.

City Engineer-Barry Burke, PE, PLS

City Administrator-David Plummer

City Communications and Operations Director-Melissa Stark Hinkle

Approval of Minutes

Commissioner Dulaney moved to approve the July 5 regular business meeting minutes, and Commissioner Mefford seconded that motion. **Motion approved 3-0.**

Financial Report

Commissioner Mefford questioned the amount of \$322.40 for Spectrum/Time Warner Cable in the monthly bills. Director Hinkle will research to ensure the item is properly billed, and if the payment is for a single month or two months. Engineer Burke brought forth two invoices from Bluegrass Paving and Len Riegler Blacktop that were received later, to request approval for payment. Both are related to the 2017 Street Repairs Program and include work completed to date, to allow for capital for the next phase of the project. The Commission reviewed the Balance Statement from July 1, 2017 to August 4, 2017; the Budget/Spend Comparison report from July 1, 2017 to August 4, 2017; and also reviewed bills for payment through June 26, 2017 to August 4, 2017. Commissioner Mefford moved to approve the City's monthly financial statement in total, including the two invoices from Burke. Commissioner Dulaney seconded. **Motion approved 3-0.**

September Meeting Date

Due to the Labor Day holiday falling on the regularly scheduled meeting date, Mayor Solomon recommended that Tuesday, September 5, 2017 at 7 p.m. be set for a special meeting. Commissioner Mefford made a motion to select that date as a special meeting for September. Commissioner Dulaney seconded. **Motion Approved 3-0.**

Mayoral Report

Mayor Solomon wished Commissioner Mefford a Happy Birthday, as his birthday was on meeting day.

Mayor Solomon conducted the formal oath of office for City Clerk Donna Wahoff and City Administrator David Plummer and welcomed them to the city. He deferred the remainder of his report until after discussion of StoryPoint issues, so Commissioner Mefford could be present for those, and be excused to attend to a family medical matter following the discussion.

Public Comment

Mr. Matt Compo, of 9069 Braxton Drive, came forward with a concern regarding the development for StoryPoint. He and his wife, Lisa who was also present, purchased their home based on the fact that the property behind their home was zoned for Single Family Housing with a Union Town Center overlay. He is opposed to the change in zoning request, due to the planned development. The single story height is 100 feet back from his home, but the three-story height is 500 feet back from his home. He said that the 500-foot sounds like a lot, but when you measure it off, it is not that far. He feels the development will detract from the value of his home, and make it difficult for him to sell his home. He is currently looking to sell his property. He also stated that since the Kroger construction began, he has not been able to open up his pool and has had his air conditioning unit damaged by the dirt movement, and also cited several neighbors with similar complaints. He concluded with the fact that he works at DHL on the night shift, and the noise from construction makes it difficult for him to sleep during the day. He wants to be considered for compensation for the effect on his home value. He also brought forth the issue of his neighbor's home, John and Allie Carney of 9065 Braxton-also in attendance, flooding due to the regrading issues from the Kroger construction, and worries that additional construction may cause additional flooding.

Mr. Chester Gregory of 2204 Penrose Way, came forward to address the StoryPoint proposal. Gregory stated that he was initially of mixed feelings regarding the development, but after seeing the proposal, he feels it is a nice plan, and they will provide upkeep of the area and build a good facility that will be an asset for the city. He has been dealing with a retention pond located between his home and the proposed development, and has had a significant infestation with gnats, which has prevented the enjoyment of his home in the warm months. StoryPoint has a plan to improve this pond with a fountain, and potentially the addition of fish, to eat the larvae and eliminate additional problems with geese migrating to the area. He is in support of the development, preferring this type of development to a Burger King or other retail and would prefer a nicer commercial development versus generic apartments or a strip mall located in that area.

Mr. Todd Morgan, of the Boone County Planning Commission clarified a point that the original zoning would permit up to six dwellings per acre for the majority of the area being proposed for development, while the area specifically along Braxton had a 2.2 dwelling per acre restriction. These would stand if a zoning change is not approved as a point of order.

Ms. Lisa Compo, of 9069 Braxton Drive, came forward to state that the Union Commission allowed the Kroger to build there, and took over that area from residential living, and that there have been two zoning changes in

that area brought forward since 2003. She asked the commission to look down the road as these zoning changes are brought up that there is no undesirable “remaining” land parcels left over from rezoning that create parcels that no one wants to live on and then causes a residual effect down the road where additional rezoning is required to allow for development of these parcels that create issues for residents. She requested that the commission carefully consider these zoning changes from a long-term standpoint as to the future changes the approval of one zoning request would have on adjacent parcels and how that affects the city as a whole. She stated that she would not have purchased her home if she felt that the area behind it would have been rezoned from single family homes, and feels that she and her husband did their due diligence in researching where they purchased, but rezoning has created an issue for them they could not anticipate when they invested in their home.

Aaron Seymour, from StoryPoint, LLC. came forward to state that the company has tried to be sensitive to concerns, and that this proposed development will use the most extensive buffers they have ever used on a property to help with resident concerns. He restated that there will be a 100-foot setback from the one-story portion of the development and 500-feet to the three-story portion of the development.

Mr. John Carney, of 9065 Braxton Drive, came forward with a concern regarding flooding issues in his backyard due to the Kroger construction. Mayor Solomon asked if further discussion regarding his concerns could be deferred to after the formal StoryPoint Presentation to allow for Commissioner Mefford to leave the meeting earlier. Mr. Carney agreed to this request.

StoryPoint Presentation

Todd Morgan, of the Boone County Planning Commission, came forward to review the recommendation of the staff report of the Boone County Planning Commission. He stated that the recommendation of the BCPC was to approve the project, passing with a 12-2 vote. The BCPC feels this development will be a good transitional “step down” development between Kroger and the surrounding residential areas. There are 40- to 80-foot buffers surrounding all points of the property, and multiple conditions that must be met by the development to ensure proper safety, aesthetic and safety concerns. An access fence for emergency egress agreement is being negotiated with Kroger and will be installed for safety. Lighting is also being addressed with the development being restricted to outdoor lighting poles no taller than 21-feet to minimize light pollution for neighboring residences.

Commissioner Ramage noted that the removal of the “old farm fence” located on the property will be required to be removed on the StoryPoint side of the development and he will be bringing forward a recommendation from Kroger that the farm fence will be removed throughout the entire development space. Seymour noted that StoryPoint has committed to clean and grub all along the backside of the fence between StoryPoint and the neighboring properties, and will conduct a tree study to preserve any mature trees that do not need to be removed during construction. He stated that they can also look into installing a yard drain to help on the lower side of the property with drainage if needed or required.

Attorney Voss read the Ordinance 2017-10 (as detailed in legislation) for a first reading with a vote scheduled for September on the Zoning Change request.

Attorney Tyler Kalachnik, representing StoryPoint, LLC. brought forward a request for the City of Union to issue Industrial Revenue Bonds in the amount of \$42 million dollars for a 35-year period for the StoryPoint development. The City would act as a conduit issuer of the IRB, and these bonds allow for the payment of fees for development and expenses outlaid by a developer for 60 days prior to the approval of such bonds. He reviewed a presentation which outlined the development as proposed, including number of residents, jobs created and information on structure, parking and amenities. He opened the floor for questions regarding the IRB.

Commissioner Mefford asked what the cost of the project would be and if the company would have any equity invested into the development. Kalachnik replied that the cost would be approximately \$42 million and that 7-8% of the equity in the project would come from the parent company.

Commissioner Mefford asked if StoryPoint would continue to hold the deed to the property or would look to transfer ownership to the city. Kalachnik replied that the company would hold the deed fee simple and they planned no transfer to the city.

Commissioner Mefford asked what review process for these bonds would be at the state level. Kalachnik replied there would be a PABAC review, but these types of bonds do not reach the level of KYEDFA approval level.

Commissioner Mefford inquired if StoryPoint would be seeking to participate in a PILOT program. Kalachnik replied that StoryPoint will continue to pay property taxes, and there is no need for a PILOT program designation, as they will pay taxes as required. Attorney Voss added that in the proposed resolution to allow the issuance of IRB, language has been incorporated that StoryPoint agrees never to ask for property taxes to be abated.

Commissioner Ramage asked if the city will be required to carry anything on their accounting books, or what liability the city would have for recording these debts and bonds. Kalachnik replied that as an accounting matter, these would be noted in an annual audit for the city as a standard accounting practice, but that these bonds are not considered as a debit of the city.

Mayor Solomon noted that the City of Union has no plans or procedures in place for the issuance of IRBs and that he is not sure we fully understand this process or how it would affect the city in the future. He wants to fully understand the whole process and create a defined procedure before fully committing to it from a city standpoint.

Kalachnik replied that these are non-taxable bonds used for investments, and they have a limit in the state based on federal issuance guidelines.

Solomon asked if these bonds hurt the city's score. Kalachnik replied that they only affect the private company's score and not the city. He emphasized that time is of the essence, as the volume of the bonds (money available for bond issuance) expires at the end of the year.

Commissioner Ramage called the question, recommending that the city move forward with the proposed non-binding resolution to allow StoryPoint to inquire with the required state agencies to see if any funds are available for the issuance of these bonds. Solomon was opposed to this idea, but was advised by Attorney Voss that since the question was called, a vote must be taken. Attorney Voss read Resolution No. 2017-06 (detailed in legislation) into record. Mayor Solomon made a motion to table Resolution No. 2017-06.

Commissioner Dulaney second. **Motion failed, 2-2.** Mayor Solomon again opposed, on the grounds that the full commission was not present, with Commissioner Miller absent and that not enough questions were answered regarding the issuance of the bonds. Attorney Voss advised that the resolution must now come to a vote. Commissioner Ramage moved for approval of Resolution No. 2017-06, Commissioner Mefford second. **Motion failed, 2-2.**

Attorney Voss advised that the city would be open to a special meeting to provide an opportunity for further education on the IRB process and that in the interim city staff would pursue more information regarding IRB issuance. Commissioner Mefford asked to be excused from the meeting to attend to his family issue and retired from further discussion and action at this meeting.

Mayor's Comments

Mayor Solomon returned to his comments. He updated on the Mt. Zion road construction from the Kentucky Transportation Cabinet. Utility relocations are nearly complete, and significant earth movement along the route has begun. The cabinet is hopeful to be able to continue with earth preparation and be able to reroute some traffic onto new diversions of the road before winter.

The Mayor presented a new table of city organization to reflect the city being at full-staff again. The only position remaining to be filled is a part-time city treasurer, and it is hoped that this person will be in place by the September meeting.

Mayor returned to the discussion of Kroger, and to address the issue of Mr. Carney regarding the 10-foot buffer between the Kroger vinyl fencing and the "old farm fence" along Braxton Drive behind the new Kroger. In negotiations with the city, Kroger has agreed to remove this old fence and to clear and grub the area. Kroger will be sending out letters to affected residents to come to a resolution for the area, and to address those residents who have used this old fence as a tie-in to their property fences. Kroger will be seeking a majority-rule agreement among all residents as to a permanent solution to the area for maintenance.

Mayor also updated that he worked with the Kroger management team to ensure the old Kroger gas station, located at the corner of US 42 and Richmond would remain open. Kroger management proposed closing the station once the new fuel center was open at the new Marketplace, due to approximately \$200 thousand to retrofit the old station to be a stand alone fuel center. Solomon advocated that to rent the old store, traffic

counts from the station would be beneficial and that the closure would be detrimental to the surrounding businesses. His negotiation resulted in Kroger agreeing to keep the existing station open once the Marketplace opens in late September. He noted that city staff has notified these affected businesses of this decision to ensure they remain stable and vibrant in the city.

Solomon brought up a request by Kroger to lengthen the time of delivery to the new store, as the 11 p.m. restriction is causing logistic issues for delivery and stocking in the new store. Because this store will be the largest and with the most extensive range of products, Kroger management is having a difficult time getting the store ready to open and keep deliveries scheduled. Attorney Voss advised that under the current Nuisance Ordinance, deliveries were not permitted after 11 p.m. Solomon proposed the creation of a municipal order to allow a variance for Kroger in the Nuisance Ordinance through the end of the year on a provisional basis to help the store prepare to open and get through the holiday season. Commissioner Dulaney made a motion to allow Attorney Voss to prepare a Municipal Order to make an exception to the noise restriction portion of the Nuisance Ordinance to allow deliveries to Kroger until 12/31/2017. Ramage seconded. **Motion approved, 3-0.**

Committee Reports

Planning and Zoning: Commissioner Ramage reported on behalf of Jamie Nieves. There were no items affecting the city of Union at the last meeting.

- **Economic Development Committee (EDC):** Commissioner Ramage reported that the only major item of note is the proposed Drees development behind St. Timothy's. Todd Morgan advised that this matter would be presented to the Fiscal Court on August 22 for a first reading. He noted that traffic along Frogtown Road with only one entrance and exit to this development remains a concern for approval.

Ramage announced that the next meeting of the Economic Development Committee is set for August 17 at 6 PM.

City Administrator Report

Administrator Plummer announced that he would be attending an Economic Development Conference on August 21-24. He also thanked the city commission for allowing him to be CAO and to serve the citizens of Union.

Public Works

Commissioner Dulaney reported on a drainage issue on 1100 Abbington, with Mr. Johnathon Tanner installing a pipe from his sump pump to a side yard, causing flooding issues for Mr. Steven Howe at 1104 Abbington. Dulaney and Plummer conducted an on-site visit and advised that this pipe causes overtopping for the city sidewalks. A letter was drafted and sent to Mr. Tanner advising him of this issue and providing several options for remediation to this issue at his own expense. No response has been received, so Attorney Voss has been

asked to follow up and have the issue addressed as a public nuisance which creates a public hazard due to the slime and/or ice created by the water overtopping the sidewalk area.

City Engineer Burke reported on a development with the 2017 Street Repairs Program with 200 feet of deteriorated pavement on Sweet Harmony Lane between Stillmeadow Drive and Evensong Drive. In further research, it has been determined that a failure of the subgrade on this section, due to fatty clay subgrade, has caused significant degradation of the roadway, which will require remediation well beyond the initial bid of \$10,284 by Bluegrass Paving for repair. Drees Homes has contacted the city regarding a potential cost-sharing towards the increased costs to repair this section, which could be as high as \$35,000. Burke advised that the road could simply be repaved as bid, but that it would fail rapidly, possibly as quickly as one to two years, and that the city should seek a more permanent repair which would require the stabilization of the subgrade. The Public Works Committee recommends that Phase D, the portion of the work outlined in the initial bid for this road, be rebid and those bids be presented at the next Commission meeting for approval. The commission recommended that this move forward to a rebid and to continue to negotiate for cost share funding from Drees to offset the increased costs. Attorney Voss advised that Burke inform Bluegrass of this rebid process and invite them to bid again on this new proposal with the additional remediation included.

Burke updated on other phases of the Street Repairs program, including the addition of several change orders for curb and gutter work along Cedarwood Drive and Pembroke. Curb and gutter work has been completed on many sections of Ivy Pond, Russwill Lane and other smaller sections of roadway throughout the city, and repaving is expected to begin in the next week. He also updated on the Phase B of the project, with Cherbourg and Wilshire, which includes several handicapped ramps. Milling is set to begin on Cherbourg with unique wedge milling to be conducted to make sure the entire road remains as the same height from curb to curb.

Burke also addressed the continued maintenance of the Hempsteade Culvert by A&A and A&A Lawncare continue to monitor this issue to ensure debris is cleaned, especially after intense storms.

Mayor Solomon asked Commissioner Ramage about the proposed sale of the Community Building. Ramage noted that two appraisers have viewed the property, and are preparing their reports. As soon as the appraisals are received, he will present those to the commission for next steps.

Communications Report

Communications and Operations Director Hinkle gave a brief report on the survey data for Union Celebrates America. 60 individuals and two vendors responded to the survey requests. The survey information was overwhelming positive on all points, with at least a 65% approval on all points of the survey. The top reported complaint was the lack of a high school marching band for the parade. Hinkle reported that Ryle, Cooper and Simon Kenton were all contacted to perform, but all declined, and that due to KSHAA rules, the UCA date falls in the "dead period" where no performances or practices are allowed by state rules, and that it will be difficult, if not impossible to ever secure a band to perform at the parade unless some rules are changed at the state level.

Office Administration Report

Hinkle revisited the issue of overpayments on Street Light and Sewer assessments that were presented at the July 8 special meeting. Attorney Voss advised that he had done an in-depth review of statute and found that there was no restriction regarding a time period for refunds, and that these overpayments were not taxes, and therefore able to be returned to the residents. On two cases, he advised that the city should not refund, as the City was not a party to the foreclosure actions on these two residences, and the liens had not been cleared and should still be assessed as provided by ordinance. Hinkle requested that the commission authorize a refund to the remaining seven residents affected by these accounting mistakes and checks be issued for the overpayments to those residents. Commissioner Dulaney moved that the city refund the overpayments to the seven residents in the amount of \$2651.03. Commissioner Ramage second. **Motion approved, 3-0.**

City Attorney Report

Attorney Voss had no report.

Legislation: Ordinances/Municipal Orders/ Resolutions (prepared by Attorney Greg D. Voss)

Resolutions

RESOLUTION NO. 2017-6 -ENCOURAGING AND INDUCING CSIG HOLDING COMPANY LLC, OR AN AFFILIATE THEREOF, (THE "COMPANY"), TO PROCEED WITH THE ACQUISITION, CONSTRUCTION, EQUIPPING, AND INSTALLATION OF AN INDUSTRIAL BUILDING BY AGREEING TO UNDERTAKE THE ISSUANCE OF INDUSTRIAL REVENUE BONDS, IN AN AGGREGATE AMOUNT NOT TO EXCEED \$42,000,000, ISSUED IN ONE OR MORE SERIES ("BONDS"); AUTHORIZING A MEMORANDUM OF AGREEMENT; AUTHORIZING THE MAYOR OF THE CITY OF UNION, KENTUCKY TO EXECUTE A MEMORANDUM OF AGREEMENT, AND AGREEING TO TAKE SUCH OTHER ACTION AS NECESSARY OR REQUIRED TO AUTHORIZE THE ISSUANCE OF THE BONDS. **Failed, 2-2.**

Ordinances

ORDINANCE NO. 2017-10 --AN ORDINANCE OF THE CITY OF UNION, KENTUCKY APPROVING WITH CONDITIONS, A REQUEST OF STORYPOINT FOR AND ON BEHALF OF ARLINGHAUS I LLC FOR A ZONING MAP AMENDMENT, SUCH ZONING MAP AMENDMENT TO THE BOONE COUNTY ZONING MAP BEING A ZONE CHANGE FROM RURAL SUBURBAN ESTATES/UNION TOWN OVERLAY (RSE/UTO) TO PUBLIC FACILITIES/PLANNED DEVELOPMENT (PF2/PD) FOR A 14.104 ACRE SITE GENERALLY LOCATED ON THE EAST SIDE OF U.S. 42 AND IMMEDIATELY SOUTH OF THE PROPERTY AT 9001 U.S. 42 (KROGER MARKETPLACE), UNION, KENTUCKY. **First Reading**

Announcements:

The September Special meeting of the Commission will be Tuesday, September 5 at 7 PM.

Adjournment

Motion to adjourn was made by Commissioner Ramage, and seconded by Commissioner Dulaney. **Motion approved 3-0.** Meeting adjourned at 9:28 p.m.

APPROVED:

ATTEST:

Larry Solomon, Mayor

Donna Wahoff, City Clerk