

September 22, 2009

The City of Cynthiana Board of Commissioners met in regular session in the Commissioner's Room at City Hall on September 22, 2009 at 5:30 P.M. Present were Mayor Keith, Attorney Lair, Commissioners Grayson, Mattmiller, Moore, and New.

Mayor Keith called the meeting to order. Mayor Keith advised the first item on the agenda was to be the hearing on zone change request at the Industrial Park II, however, Henry P. Watson III, lawyer for the opponents, has called and is running late. Mayor Keith asked the Board to move to the next item on the agenda.

MEETING CALLED TO ORDER –
PROCEED TO ITEM 2 ON AGENDA

Mayor Keith advised that the minutes of 9/8/2009 have been submitted for approval. Attorney Lair advised that a correction needs to be made to Page 2, last paragraph relating to the approval for Lair to file a code enforcement lien on property at 202 E. Pike Street. Paragraph should read: "Attorney Lair reported that Wayland Quisenberry, Code Enforcement Officer, had previously filed the proper paperwork to inform the owners of 202 E. Pike Street that a lien would be filed against the property" instead of "Attorney Lair reported that he had previously filed".

CORRECTION TO MINUTES MADE BY ATTORNEY LAIR

Commissioner Moore made a motion to amend the minutes of 9/8/2009, Page 2, bottom paragraph to read: "Attorney Lair reported that Wayland Quisenberry, Code Enforcement Officer, had previously filed the proper paperwork to inform the owners of 202 E. Pike Street that a lien would be filed against the property." Commissioner New seconded. In favor: Commissioner Moore: yes; Commissioner New: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none.

MOTION TO AMEND 9/8/2009 MINUTES

Commissioner Moore made a motion to approve the 9/8/2009 minutes as amended. Commissioner New seconded. In favor: Commissioner Moore: yes; Commissioner New: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO APPROVE 9/8/2009 MINUTES

Commissioner New made a motion to approve the minutes of the Public Hearing held on September 10, 2009. Commissioner Moore seconded. In favor: Commissioner New: yes; Commissioner Moore: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO APPROVE MINUTES OF PUBLIC HEARING 9/10/2009

Commissioner New made a motion to approve the minutes of the Special Meeting held on September 10, 2009. Commissioner Moore seconded. In favor: Commissioner New: yes; Commissioner Moore: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO APPROVE MINUTES OF SPECIAL MEETING 9/10/2009

Attorney Lair read Resolution 2009-#35 approving Pay Resolution #16 in the amount of \$12,258.20 for the Westside Redevelopment Project – Phase II.

MOTION TO APPROVE RESOLUTION 2009-#35

Commissioner Moore made a motion to approve Resolution 2009-#35. Commissioner Mattmiller seconded. In favor: Commissioner Moore: yes; Commissioner Mattmiller: yes; Commissioner Grayson: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none. Motion carried.

Attorney Lair read Resolution 2009-#36 approving the contract for asbestos removal to S. D. Environmental for the Westside Redevelopment

MOTION TO APPROVE RESOLUTION 2009-

Commissioner Moore made a motion to approve Resolution 2009-#36. Commissioner Mattmiller seconded. In favor: Commissioner Moore: yes; Commissioner Mattmiller: yes; Commissioner Grayson: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none.

Upon the arrival of Mr. Watson, Attorney Lair explained that United Propane selected 2.324 acres located in Industrial Park II at the intersection of Sea Biscuit Way/Connersville Pike. United Propane has requested a zone change from I-1 (Industry One District) to I-2 (Industry Two District). Planning and Zoning held the appropriate hearings and sent a recommendation to the Board of Commissioners for approval. The opponents requested a full hearing in front of the Board of Commissioners. The Board of Commissioners agreed to an argument type hearing where no new evidence could be presented. This hearing is to be conducted by legal counsel: Henry P. Watson III for the opponents and Eric Gibson for United Propane. During a conference call among Lair, Watson, and Gibson, it was agreed that United Propane would speak first for 15 minutes, Mr. Watson for 20 minutes, and 5 minutes for rebuttal by Gibson.

ARGUMENT TYPE
HEARING ON ZONE
CHANGE REQUEST

Mr. Gibson advised that United Propane is a retail propane tank company with their home office in Paducah, Kentucky.

UNITED PROPANE
PRESENTATION BY
ERIC GIBSON

Mr. Gibson stated that two of the primary concerns of the opponents relate to aesthetics. It was noted at a previous hearing, that the propane tank at Shelbyville, Ky., was rusted and was unsightly. United Propane has a crew that performs this type of maintenance; however, at the time the photo was taken, they had not made it to the Shelbyville location. That tank is now painted.

Another objection was the residents did not want to look out their windows at a big white tank. United Propane will install screening (evergreen trees) along the Connersville Road. The location will be a retail operation with two to four trucks (depending on volume) supplied by tractor trailer during the day time.

Mr. Gibson addressed the safety issue with regard to explosions. Mr. Gibson advised that safety regulations and training are in place to protect from such an incident. This industry is regulated by the State Fire Marshall Office. There are already two propane suppliers in the area: Southern States and Miles Farm Supply.

The causes of an explosion are usually due to an illegal action or a neglected system. There is no ground water contamination with propane. Any seepage would only come from what is in the hose. This will be vented off and the amount of gas relieved cannot be smelled within 75 ft. of the transport.

Mr. Gibson stated that United Propane would not endanger the community, but will enhance our community.

Mr. Henry P. Watson III stated that Mr. Gibson's explanation of an elaborate safety procedure is not part of the records. Mr. Watson stated this should not be considered when making the decision on the project.

OPPONENT'S
PRESENTATION BY
HENRY P. WATSON
III

Mr. Watson advised the Industrial Park Board has covenants and

restrictions regulating Industrial Park II. However, the I-2 zoning states that a location must have five acres. The lot selected by United Propane only contains 2.324 acres. The Board of Adjustments cannot adjust acreage. United Propane has refused another location within the park. There are concerns about safety since there will be no chain link fence around the property. There is also a strict requirement about screening which United Propane wants the Economic Development Authority to purchase. Property values will drop. The residents in this area did not object to I-1, but they do object to I-2.

Mayor Keith questioned if this proposal was consistent with the Comprehensive Plan. Mr. Watson replied that he was not sure if this recommendation would meet the requirements for future land use plan.

Mayor Keith questioned if Mr. Watson believed the zoning change would rectify the problem? Mr. Watson responded that for heavy industrial use he thought more than five acres should be used.

Mr. Gibson responded that one of the biggest concerns was noxious fumes. United Propane takes the position that noxious fumes should be prohibited everywhere in the park. To address the "corner" lot issue, he stated this particular piece of property was selected by corporate people. Propane gas is primarily a business used by elderly citizens. Corporate felt this location would be a good access for walk-in business.

REBUTTAL BY
UNITED PROPANE

Mayor Keith questioned the safety record of United Propane. Mr. Gibson advised that this family owned business has 52 retail locations and had not experienced a catastrophic incident: no explosion – no massive release of gas.

Mayor Keith questioned if the Fire Marshall inspect these plants on a regular basis. Mr. Gibson replied they are to inspect at least once a year. Mr. Gibson also advised that in the beginning there will be approximately three employees: 1 full-time office position, 2 delivery drivers.

Each attorney completed their allotted time and the hearing closed at 6:28 P.M.

HEARING CLOSED

Mayor Keith advised there would be a 10 minute recess with session resuming at 6:40 P.M.

RECESS

When the meeting resumed, Attorney Lair read Ordinance #1463A amending the golf cart ordinance.

ORDINANCE #1463A
– (2nd Reading) –
GOLF CART
ORDINANCE

Commissioner Moore made a motion to accept the second reading of Ordinance #1463A . Commissioner Mattmiller seconded. In favor: Commissioner Moore: yes; Commissioner Mattmiller: yes; Commissioner Grayson: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none. Motion carried.

Mayor Keith announced that in regard to the Planning and Zoning issue, he felt it would not be appropriate for the Board to make a decision without reviewing the findings of fact presented by Mr. Watson.

ZONE CHANGE
REQUEST WILL BE
TAKEN UNDER
ADVISEMENT

Commissioner Moore made a motion to take the Planning and Zoning

recommendation to change 2.324 acres from I-1 to I-2 under advisement. Commissioner New seconded. In favor: Commissioner Moore: yes; Commissioner New: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none. Motion carried.

Some of the opponents of the zoning change, stated they would like to be notified when the Board will act on this matter. Mayor Keith stated the City would notify the radio station and the lawyers.

Attorney Lair continued with the reading of Ordinance #1464 setting a tax rate for 2009 of 16.0 cents on each and every \$100.00 worth of taxable real property, and 21.20 cents on each and every \$100.00 worth of taxable personal and mixed property subject to taxes for city tax purposes in the City of Cynthiana, Kentucky.

ORDINANCE #1464 –
(2nd Reading) –
TAX RATE ON REAL
AND TANGIBLE
PROPERTY

Commissioner Mattmiller made a motion to accept the second reading of Ordinance #1464. Commissioner Moore seconded. In favor: Commissioner Mattmiller: yes; Commissioner Moore: yes; Commissioner Grayson: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none. Motion carried.

Attorney Lair read Ordinance #1465 levying an ad valorem property tax in the amount of 16 cents on each and every \$100 worth of motor vehicles by the City of Cynthiana, Kentucky for the year 2010.

ORDINANCE #1465 –
(2nd Reading) –
AD VALOREM ON
MOTOR VEHICLES

Commissioner New made a motion to accept the second reading of Ordinance #1465. Commissioner Moore seconded. In favor: Commissioner New: yes; Commissioner Moore: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none.

Attorney Lair advised an agreement has been received with the Department for Local Government with regard to the Upstream Flood Control Design. Mayor Keith advised that this would not require any expenditure on the City's part.

UPSTREAM FLOOD
CONTROL DESIGN

Commissioner Mattmiller made a motion to authorize Mayor Keith to sign the agreement with the Department for Local Government with regard to the Upstream Flood Control Design. Commissioner New seconded. In favor: Commissioner Mattmiller: yes; Commissioner New: yes; Commissioner Grayson: yes; Commissioner Moore: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO
AUTHORIZE MAYOR
TO SIGN AGREEMENT
ON UPSTREAM
FLOOD CONTROL
DESIGN

Attorney Lair reported an ongoing effort to locate the heirs of 413 N. Poplar Street and 206 W. Pearl Street. These two parcels are part of a condemnation process for Code Enforcement. There has been trouble locating some of the owners, and some of the owners have died since the process started. When death occurs, the process must start over again.

UPDATE ON LEGAL
PROCESS FOR 413 N.
POPLAR/206 W.
PEARL ST.

Commissioner Grayson has requested a resolution in regard to the repair of the A. Keller Dam. Attorney Lair has prepared a draft and Commissioner Grayson will need to review.

REPAIR OF A. KELLER
DAM RESOLUTION

Mayor Keith advised that he was in receipt of a draft lease with the Harrison County Historical Society with regard to the Handy House. Mayor Keith advised that all parties are in essential agreement, but the Board will need time to review. Each Commissioner will receive a copy.

DRAFT LEASE –
H.C. HISTORICAL
SOCIETY - TO BE
REVIEWED

Mayor Keith recognized Commissioner of Public Safety Amanda Moore.

PUBLIC SAFETY
REPORT

Commissioner Moore thanked the Police Department and the Fire Department for assisting with the Run/Walk at the Taste of Harrison County.

THANKS TO POLICE &
FIRE DEPARTMENT
FOR TASTE OF H. C.

Commissioner Moore reported that Commissioner Mattmiller had requested more information regarding the Take Home Fleet proposal.

INFORMATION ON
TAKE HOME FLEET

Commissioner Mattmiller stated he had several concerns about insurance cost compared to maintenance cost, new cruisers versus old cruisers. Commissioner Mattmiller questioned how many officers were on a shift. Commissioner Moore advised 2 to 3 each shift. There are a total of 14 cruisers, but one is not operable. All 13 cruisers are being used. The department is currently down two officers.

Commissioner Mattmiller requested some time to review the proposal with the new information.

Commissioner Moore made a motion to dismiss temporary part-time Police Clerk Jacquelynne Arnold during probationary period effective immediately. Commissioner Grayson seconded. In favor: Commissioner Moore: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Commissioner New: yes; Opposed: none. Motion carried.

MOTION TO DISMISS
P-T POLICE CLERK
J. ARNOLD DURING
PROBATIONALY
PERIOD

Commissioner Moore made a motion to post within the organization for a full-time certified E-911 Telecommunicator. Commissioner Mattmiller seconded. In favor: Commissioner Moore: yes; Commissioner Mattmiller: yes; Commissioner Grayson: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO
ADVERTISE FOR A
FULL-TIME
CERTIFIED E-911
TELECOMMUNICATOR

Commissioner Moore made a motion to promote Firefighter Andrew Wigglesworth to the position of Lieutenant effective October 1, 2009. Salary to be commensurate with position. Commissioner New seconded. In favor: Commissioner Moore: yes; Commissioner New: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO
PROMOTE ANDREW
WIGLESWORTH TO
LIEUTENANT
POSITION IN FIRE
DEPT.

Commissioner Moore made a motion to advertise for an Assistant Police Chief. Commissioner New seconded. In favor: Commissioner Moore: yes; Commissioner New: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO
ADVERTISE FOR AN
ASSISTANT POLICE
CHIEF

Mayor Keith recognized Commissioner of Public Property and Finance Mark Mattmiller.

PUBLIC PROPERTY &
SAFETY REPORT

Commissioner Mattmiller made a motion to pay the following bills:

BILLS

General Fund	\$70,177.93
Water & Sewer Fund	52,875.66
Cash-in-Bank General Fund	46,579.51
Cash-in-Bank W & S Fund	48,658.66
Municipal Aid Road Fund	130,672.39

Commissioner Moore seconded. In favor: Commissioner Mattmiller: yes; Commissioner Moore: yes; Commissioner Grayson: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none. Motion carried.

Commissioner Mattmiller made a motion to make a one-time payment of \$600.00 to the Clothes Closet to help with the rent. This issue will be reviewed in 6 months. Commissioner New seconded. In favor: Commissioner Mattmiller: yes; Commissioner New: yes; Commissioner Grayson: yes; Commissioner Moore: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO MAKE ONE-TIME PAYMENT TO THE CLOTHES CLOSET IN THE AMOUNT OF \$600.00

Commissioner Mattmiller advised that a problem exists with the lights on the West Pleasant Street bridge. There is a short in the conduit that is located under the concrete of the bridge. A bid of \$2218.00 has been received to re-wire the bridge.

MOTION TO REPAIR LIGHTS ON W. PLEASANT STREET

Commissioner Mattmiller made a motion to have the lights on the West Pleasant Street Bridge repaired at a cost of \$2218.00. Commissioner Grayson seconded. In favor: Commissioner Mattmiller: yes; Commissioner Grayson: yes; Commissioner Moore: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none. Motion carried.

Dave Kennedy and Gary Royalty met with The Neal Company on the TEA-21 Streetscape Project Phase II to make some changes regarding drains, coal chutes, planting areas, window wells, as well as, deleting the handicap curves recently installed by the state. The change order resulted in an additional amount of approximately \$5,500.00.

MOTION TO APPROVE CHANGE ORDER FOR TEA-21 STREETScape PROJECT

Commissioner Mattmiller made a motion to approve the change order on the Streetscape TEA-21 project in the amount of \$5500.00. Commissioner Moore seconded. In favor: Commissioner Mattmiller: yes; Commissioner Moore: yes; Commissioner Grayson: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none. Motion carried.

Commissioner Mattmiller encouraged citizens if they have a problem with their recycling carts, please call Legacy Carting.

RECYCLING CARTS

Mayor Keith recognized Commissioner of Public Utilities Billy Grayson.

PUBLIC UTILITIES REPORT

Commissioner Grayson is pleased with the Pick-A-Project program. The youth group from the Journey Christian Church pulled nails out of the utility poles on Main Street. Some of the youth also painted grills etc. Commissioner Moore suggested a Community Bulletin Board on which to list projects, projects in process, etc.

PICK-A-PROJECT PROGRAM

Commissioner Grayson advised at an earlier meeting, Rob Williams of HDR, Inc. reported the need for a mussel study at the Main Licking River intake. Commissioner Grayson made a motion to authorize Mayor sign the agreement with the Redwing Ecological Service Inc. to conduct a study to determine the potential if the endangered mussel is present at the Main Licking pump area at a cost of \$4400.00. This may involve possible relocation. Commissioner Moore seconded. In favor: Commissioner Grayson: yes; Commissioner Moore: yes; Commissioner Mattmiller: yes; Commissioner New: yes; Mayor Keith: yes; Opposed: none.

DEVIL'S BACKBONE PROJECT – MOTION TO SIGN AGREEMENT WITH REDWING ECOLOGICAL SERVICE, INC FOR FANSHELL MUSSEL SURVEY

It was noted that these mussels are known to be native to this part of the river.

Commissioner Grayson advised that another meeting will be held on the A. Keller Dam repair at Dustin Rose's office.

A. KELLER DAM MEETING

Mayor Keith recognized Commissioner of Public Works James R. New.

PUBLIC WORKS
REPORT

Commissioner New made a motion to grant up to a six month unpaid leave of absence for Kendall Gann effective September 9, 2009. Commissioner Grayson seconded. In favor: Commissioner New: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Commissioner Moore: yes; Mayor Keith: yes; Opposed: none. Motion carried.

MOTION TO GRANT
KENDALL GANN A SIX
MONTH UNPAID
LEAVE OF ABSENCE

Mayor Keith advised that Halloween Trick-or-Treat night will be held on October 31, 2009.

TRICK-OR-TREAT

Mayor Keith advised that a draft of the Harrison County Water Association agreement has been received. This agreement will be reviewed and acted on at the next meeting.

HCWA AGREEMENT –
DRAFT RECEIVED

There being no further business to discuss, Commissioner New made a motion to adjourn. Commissioner Moore seconded. In favor: Commissioner New: yes; Commissioner Moore: yes; Commissioner Grayson: yes; Commissioner Mattmiller: yes; Mayor Keith: yes; Opposed: none. Meeting adjourned at 7:41 P.M.

ADJOURNMENT

Charleen McIlvain, City Clerk

John M. Keith, Jr., Mayor