

**CITY OF BARDSTOWN
REGULAR COUNCIL MEETING MINUTES**

**2-23-10
7:00 P.M.**

The City Council met in a regular session in the Council Chambers with Mayor J. Richard Heaton and the following Councilmen:

Councilman Reed
Councilman Williams
Councilman Lydian
Councilman Sheckles
Councilman Royalty
Councilman Simpson

Others present: Police Chief Marksbury, Asst. City Administrator Green, Chief Financial Officer Abell, City Civil Engineer Greenwell, City Attorney Donan, City Clerk Blincoe, HRB Administrator Bogert, WBRT/WOKH reporter Fred Hagan, The Kentucky Standard reporter Stephanie Hornback, WYSB reporter Tom Redmon, PLG-TV Director Tom Isaac, Smoke-free Coalition members Pat Whelan, Jayme Haslam, Judy Richardson Jett and Kay Clark, Nelson Fiscal Court Magistrates Sam Hutchins and Maynard Wimsett, Jerry Lear, Jerry Brady, Alan Brown, Sr., Alan Brown, Jr., Dale Oelker, Juanita Parrott, Joyce Pyle, Rod Mattingly, Betty Hicks, Terry Sympson, Blanche Moran, Joyce and James Norris, Billy Norris, Marion Brown, Alan Brown, Tonya Oelker, Ron Greenwell, Neal Cook, Crystal Brady, Pauline Settles, Bobby Settles, Guthrie McKay, Jerry Downs, Kevin Brumley and Richard Nest.

Mayor Heaton called the meeting to order.

FIRST READING-SMOKE-FREE WORKPLACE ORDINANCE

The Mayor opened discussion on the two proposed ordinances, one with exemptions and one without. Councilman Reed and Councilman Royalty spoke in favor of the ordinance without exemptions because they believed that any type of exemption would make the ordinance unfair. Councilman Lydian said that retail tobacco stores should be exempted since tobacco products and accessories were all that they sell. Councilman Sheckles stated that business owners should be able to decide for themselves regarding what would be a better investment for them. Since the majority of businesses were already smoke-free, the others would probably decide to become smoke-free later. Councilman Simpson thought that passing the ordinance would take away management's right to manage their employees and he thought that enforcement would be difficult. A few comments were received from those people in attendance. **COUNCILMAN ROYALTY MADE A MOTION TO APPROVE THE FIRST READING OF THE SMOKE-FREE WORKPLACE ORDINANCE WITHOUT EXEMPTIONS. SAID MOTION WAS DULY SECONDED BY COUNCILMAN REED AND ENDED IN A TIE VOTE. (COUNCILMEN REED, WILLIAMS AND ROYALTY VOTED AYE; COUNCILMEN LYDIAN, SHECKLES AND SIMPSON VOTED NO). MAYOR HEATON THEN CAST AN AFFIRMATIVE VOTE TO BREAK THE TIE AND PASS THE FIRST READING OF THE ORDINANCE.** The Mayor said that he supported the ordinance because government should protect the public's health and safety. He also pointed out that the ordinance had generated more discussion and debate than any other ordinance presented during his ten years as a public official. He thanked everyone for their input and participation and commended the Councilmen for their hard work and research on the issue.

Councilman Lydian stated for the record that this was the most difficult decision he had made since he became a councilman. He explained his vote by saying that these were tough economic times for the small business owners and that they should be able to decide for themselves.

CHEMICAL BIDS-WATER TREATMENT PLANT AND WASTEWATER TREATMENT PLANT

City Civil Engineer Greenwell presented the chemical bids (see attached). He recommended approval of the low bids received and said that the final acceptance would be based on approved material jar testing, as required. **UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, THE LOW BIDS WERE APPROVED.**

SECOND READING - REZONING REQUEST #2237 - LLJ PROPERTIES, LLC

A second reading was presented on application #2237 from LLJ Properties, LLC to amend Section 15.2 of the Zoning Regulations as follows:

ORDINANCE NO. B2010-05

AN ORDINANCE OF THE CITY OF BARDSTOWN AMENDING ARTICLE 15.2 - APPLICATION OF HISTORIC DISTRICT REGULATIONS - OF THE ZONING REGULATIONS TO INCLUDE 0.28 ACRE OF LAND LOCATED AT 211 SOUTH FOURTH STREET IN THE HISTORIC DISTRICT IN THE CITY OF BARDSTOWN.

THE CITY COUNCIL OF THE CITY OF BARDSTOWN, KENTUCKY DOES ORDAIN AS FOLLOWS:

That from and after the passage, approval, and publication of this Ordinance the text of Article 15.2 (Application of Historic District Regulations) of the Zoning Regulations be amended to include 0.28 acre of land located at 211 South Fourth Street into the Historic District in the City of Bardstown. The property is described as follows:

"Beginning at an existing iron pin, 33 ft. from the center of S. Fourth St., corner to Charlette Moreno (DB 333 p 154); thence with Moreno S 75-55-23 E 227.91 ft., joining James Cotton (DB 184 p 352) at 142.91 ft. to a point on the east side of Mulberry Alley, in the line of LLJ Properties, LLC; thence with LLJ Properties, LLC S 14-31-14 W 51.80 ft. to a point, corner to LLJ Properties, LLC, on the east side of Mulberry Alley; thence N 76-40-42 W 227.76 ft., joining James Cotton (DB 168 p 476) at 10 ft., joining Joan Donahue (DB 263 p 157) at 65.59 ft. and joining Mary Ellen Harding (DB 379 p 775) at 108.28 ft. to an existing iron pin, corner to Harding and 33 ft. from the center of S. Fourth Street; thence with the east r/w line of S. Fourth Street N 14-19-36 E 54.80 ft. to the point of beginning containing 0.28 acres."

All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

This ordinance shall take effect and be in force immediately upon its passage and publication as required by law.

UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THE MAYOR CALLED THE ROLL AND THE FOLLOWING VOTED:

COUNCILMAN SIMPSON - AYE
COUNCILMAN ROYALTY - AYE
COUNCILMAN SHECKLES - AYE
COUNCILMAN LYDIAN - AYE
COUNCILMAN WILLIAMS - AYE
COUNCILMAN REED - AYE

MAYOR HEATON DECLARED ORDINANCE NO. B2010-05 ADOPTED BY REFERENCE AND BE RECORDED IN ORDINANCE BOOK NO. 10, PAGE NO. _____.

HISTORICAL REVIEW BOARD RECOMMENDATIONS

The Historical Review Board recommendations were presented as follows:

A. Certificates of Appropriateness

1. COA #10-4 [RECOMMENDED]

FastSigns proposes to install a flush-mounted 18" x 18" aluminum panel sign at 202 W. Stephen Foster Ave. (Medica Bldg.). The sign will be installed to the left of the door (facing W. Stephen Foster Ave. – see photo) and will have white letters ("Edward Jones Investments") on a dark green background. A separate matching 7" x 18" ID sign will be installed just below this sign to include name, phone number, etc.

Recommendation: To recommend approval of the proposal to install a 18" x 18" aluminum panel sign at 202 W. Stephen Foster Ave., as specified in this application.

2. COA #10-5 [RECOMMENDED]

JTD Holdings proposes the following alterations to the site and building exterior at 114-116 E. Broadway:

1. Create a gravel parking area in the rear for 8 vehicles and remove a rear gate and a small non-historic shed;
2. Add a flat slate walkway at the rear;
3. Hang existing shutters on the façade of the building;
4. Add black metal handrails to both front steps;
5. Plant 8 boxwoods and 2 hollies in the front of the building;
6. Paint the trim SW 2445 (Creamy White) and the shutters SW Black Forest Green.

Recommendation: To recommend approval of the building alterations and site alterations at 114-116 E. Broadway, as specified in this application.

3. COA #10-6 [RECOMMENDED WITH CONDITION]

Lanny Baker proposes to remove a large, decaying Maple tree on the west side of his property.

Recommendation: To recommend approval of the removal of a diseased maple tree at 216 E. Flaget Ave., as specified in this application, with the following condition: a canopy tree be planted near the location of the removed maple tree.

4. COA #10-7 [RECOMMENDED]

Studio TLC has installed white and black-lettered window signs on the two front windows at 111 N. Third St. The left sign reads "Studio TLC Photography" and the right sign lists the owners' names and hours of operation in 2" white letters. They also propose to install a similar sign (same as the left front) on the rear door.

Recommendation: To recommend approval of the window signs and rear entrance sign at 111 N. Third St., as specified in this application.

5. COA #10-8 [RECOMMENDED]

Liberty Tax Service proposes to replace the sign denied by City Council on January 26 with the following freestanding sign: It will be wood and be similar in size as the original damaged sign. It will have the same colors as the original damaged sign (logo in red, white, and blue), except that the background color will be navy blue instead of burgundy.

Recommendation: To recommend approval of the freestanding sign at 521 N. Third St., as specified in this application.

6. COA #10-9 [RECOMMENDED]

Kreso Corp. proposes the following exterior alterations to the rear of 120 N. Third St.:

1. Remove the existing stairway;
2. Construct a 64' x 16' x 11 ½' treated wood pergola with 6" posts (spaced 8' apart), 2 x 12 notched headers, 2 x 6 braces, and 2 x 10 rafters (spaced 16" apart). The pergola will occupy the space between the rear of the building and the detached brick building and will not be attached to any wall. There will be 2' left between all walls and the pergola;
3. Construct a courtyard within the pergola consisting of a stamped cobblestone pattern bordered with stamped running bond (all Scofield A-28 Tile Red) and a central 4-tiered 7'6" (36" diameter) black, cast aluminum fountain;
4. Construct a 7'-8' treated wood fence with gate from the outer corner wall of the rear brick building to the inside corner of the rear of 118 S. Third St.;
5. Paint the white concrete block wall (owned by Hayden Spalding) on the north side of this area in Benjamin Moore 2143 Olive Branch;
6. Paint the north door of the detached brick building (the side facing the proposed courtyard) Benjamin Moore 41 (Chrome Green).
7. The applicant also proposes to remove the awning on the front of 120 N. Third St.

Recommendation: To recommend approval of the building alterations and site alterations at 120 N. Third St., as specified in this application.

7. COA #10-10 [RECOMMENDATION]

Kreso Corp. proposes the following exterior alterations to the rear solid concrete block wall at 118 N. Third St.: install three 5' x 3' wood, single-pane, double-hung, sash windows with arch-head casings; paint the rear wall (now white) Benjamin Moore 2162 (Arizona Tan), window trim and door Benjamin Moore 62 (Tudor Brown).

Recommendation: To recommend approval of the building alterations at 118 N. Third St., as specified in this application.

8. Streetscape, Phase II (Courthouse Square) [RECOMMENDED]

Judge Watts requested that part of the proposed brick paving on the north corners of the Old Courthouse area be replaced with landscaping (see attached drawing). This was discussed at the October 20 HRB meeting but was not made a part of the HRB recommendations at that time.

Recommendation: To recommend approval of the replacement of brick pavers with landscaping at the north corners of the Old Courthouse, as specified in the submitted drawing.

Pen Bogert, for Don Parrish, Chair of the Bardstown Historical Review Board

HRB Administrator Bogert answered questions regarding fencing issues.

UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN SHECKLES AND CARRIED BY A VOTE OF 6 TO 0, THE RECOMMENDATIONS FROM THE HISTORICAL REVIEW BOARD WERE APPROVED ALONG WITH THE CONDITION ON ITEM NO. 3.

MINUTES

The minutes from the 2-9-10 regular City Council meeting were then presented and **UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THEY WERE APPROVED.**

MUNICIPAL ORDER NO. 2010-13-ASSESSMENT MORATORIUM CERTIFICATE-202 W. FLAGET

Municipal Order No. 2010-13 was presented as follows:

MUNICIPAL ORDER NO. 2010-13

RESOLUTION

A RESOLUTION ACCEPTING THE APPLICATION FOR AN ASSESSMENT MORATORIUM CERTIFICATE FOR THE PROPERTY LOCATED AT 202 WEST FLAGET AVENUE, BARDSTOWN, KENTUCKY, AND EXPRESSING THE CITY'S INTENT TO GRANT AN ASSESSMENT MORATORIUM TO THE OWNER OF SAID PROPERTY UPON COMPLIANCE WITH THE CITY'S PROPERTY ASSESSMENT AND REASSESSMENT MORATORIUMS, AS DEFINED IN KRS CHAPTER 99.595, ET. SEQ.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BARDSTOWN, KENTUCKY:

SECTION 1

That the "Application for Assessment Moratoriums Certificate" for the property located at 202 West Flaget Avenue, Bardstown, Kentucky, is hereby accepted and further expressing the City's intent to grant an assessment moratorium to the owner of said property upon compliance with the City's property assessment and reassessment moratoriums as defined in KRS Chapter 99.595, et seq.

SECTION 2

That this order shall take effect and be in full force when passed and recorded according to law.

UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, MUNICIPAL ORDER NO. 2010-13 WAS APPROVED.

APPOINTMENTS/REAPPOINTMENTS

Mayor Heaton said that he wanted to appoint Betty J. Payne-Preston to the Human Relations Commission for a three-year term and appoint Clara Mackin Fulkerson to the Wickland Board for a one-year term. **UPON MOTION OF COUNCILMAN WILLIAMS, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THE APPOINTMENTS WERE APPROVED.**

The Mayor said that he wanted to reappoint Michael Greenwell, Sr. Marilyn Shea, Kathy Reed and Carrie Stivers for three-year terms on the Human Relations Commission. **UPON MOTION OF COUNCILMAN ROYALTY, DULY SECONDED BY COUNCILMAN REED AND CARRIED BY A VOTE OF 6 TO 0, THE REAPPOINTMENTS WERE APPROVED.**

CEMETERY COMMITTEE

Councilman Simpson reported on the Cemetery Committee meeting that was held on February 17, 2010. The Spring Cleanup for the Bardstown Cemetery will be held on Saturday, March 27, 2010 at 10:00 a.m. Families are asked to remove articles from graves prior to the beginning of the mowing season. He updated the Council on the vandalism situation, which has improved.

CITY AUDIT

Chief Financial Officer Abell distributed the City Audit report to the Council for review. He said that he would be available if they had any questions.

SANITARY SEWER EVALUATION STUDY (SSES)

City Civil Engineer Greenwell reported that the staff would meet with the State Division of Water on March 4, 2010 to discuss continuing the City's Sanitary Sewer Evaluation Study Program. On that same day, there will be a bid opening for the closed circuit TV camera monitoring of the sewer pipes and manholes in the system.

NEIGHBORHOOD STABILIZATION PROJECT

Assistant City Administrator Green reported that the City was ready to purchase the second house with funds from the Neighborhood Stabilization grant. The City is scheduled to purchase five houses and they need to be purchased after foreclosures have occurred. Repair work will be scheduled with the Lincoln Trail ADD on the first house that was previously purchased.

DOWNTOWN STREETScape PROJECT

The Assistant City Administrator said that he has been working on the completion of paperwork on the project. The City, the Kentucky Transportation Cabinet and the Federal Highway Administration will need to approve the plans. The goal is to bid the project in March. Green gave Credit to Qk4 and Rob Martin for assistance with meeting the regulations for the project.

RECYCLING GRANT

Green then updated the Council on the Recycling Grant and said that the recycling trailer that was bid out and awarded to Dan Taylor Fabricators, a local steel fabricator, had been received and was an excellent match with the other trailers. The City saved \$3,000 to \$4,000 on the project.

CEMETERY DEED

Mayor Heaton presented a cemetery deed for Wayne and Susan Kappell and **UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED BY A VOTE OF 6 TO 0, IT WAS APPROVED.**

ADJOURNMENT

Being no further business to discuss and **UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THE MEETING WAS ADJOURNED AT 7:55 PM.**

CITY OF BARDSTOWN

ATTEST:

Bobbe Blincoe, City Clerk

J. Richard Heaton, Mayor