

**CITY OF BARDSTOWN**  
**REGULAR COUNCIL MEETING MINUTES**

5-12-09  
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 were: Police Chief Marksbury, Assistant City Administrator Green, Public Works and Engineering Director Hamilton, City Civil Engineer Greenwell, City Electrical Engineer Mills, City Attorney Donan, City Clerk Blincoe, Historic Preservation Administrator Bogert, The Kentucky Standard reporter Stephanie Hornback, WBRT/WOKH reporter Fred Hagan, WYSB reporter Tom Redmon, PLG-TV reporter Tom Isaac, Thomas Hall, David H. Hall, Sam Wheatley, David Dickerson, Josh Brandenburg, Guthrie McKay, Billy Followell, Mike Filiatreau, Brenda Bogert and Joyce Anderson.

Mayor Heaton called the meeting to order.

**SUNDAY ALCOHOLIC BEVERAGE SALES**

Sam Wheatley, owner of the Maywood Chevron, expressed appreciation to the Council for the ordinance amending alcoholic beverage sales to allow Sunday sales for convenient stores, grocery stores and liquor stores. He spoke on behalf of all the retail and wholesale merchants affected by the proposed change and thanked the Council for their support.

**FIRST READING - #2307-MARY LYNN SMITH AND PAT HAGAN & JOHN HARNED-B-3 TO R-1T**

Application #2307 was presented to rezone 0.54 acres (Tracts #4 and #5, Town House, Inc.) on the west side of North Second Street, approximately 300 feet south of O'Bryan Avenue and approximately 300 feet east of North Third Street (US 150/US 31E) from B-3, Regional Retail Business District to R-1T, Single Family Residential Townhouse District. **UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, THE RECOMMENDATION FROM THE PLANNING COMMISSION AND FIRST READING WERE APPROVED WITH THE CONDITIONS THAT WERE STIPULATED.**

**FIRST READING-REZONING #1210-PLANNING COMMISSION-B-1 TO R-1B AND R-3**

Application #2310 was presented for the Joint City-County Planning Commission to rezone 24.4 acres (Tannery Hill Development) on the east side of South First Street, 0 feet south of East Stephen Foster Avenue (US 150) and 0 feet east of John Fitch Avenue from B-1, Neighborhood Business District to R-1B, Single Family Residential District and R-3, Multi-Family Residential District. After discussion regarding the binding elements of the previous rezoning application, City Attorney Donan stated that the binding elements from the previous zoning pertaining to the PUD would lapse. He will review this issue and report back to the Council prior to the second reading. **UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THE FIRST READING WAS APPROVED TO REZONE 12.99 ACRES TO R-3, MULTI-FAMILY RESIDENTIAL DISTRICT AND TO REZONE 11.41 ACRES TO R-1B, SINGLE-FAMILY RESIDENTIAL DISTRICT.**

**MINUTES**

The minutes from the 4-28-09 regular City Council meeting were then presented and **UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN REED AND CARRIED BY A VOTE OF 6 TO 0, THEY WERE APPROVED.**

**SECOND READING - B2009-02 ALCOHOLIC BEVERAGE ORDINANCE AMENDMENT (SUNDAY SALES)**

The second reading was presented as follows:

**ORDINANCE NO. B2009-02**

**AN ORDINANCE AMENDING CHAPTER 114: ALCOHOLIC BEVERAGES OF THE CITY OF BARDSTOWN'S CODE OF ORDINANCES TO REVISE THE HOURS WHEN SALES ARE PERMITTED WITH RESPECT TO THE DISTILLED SPIRITS AND WINE RETAIL PACKAGE LICENSE AND BEER RETAIL LICENSE FOR CERTAIN ESTABLISHMENTS**

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

**SALE OF ALCOHOLIC BEVERAGES**

That Sections 114.40, HOURS OF SALE, Subsection (D), Subsection (E) and Subsection (F), be amended as follows:

(D) Facilities receiving a minimum of fifty percent (50%) of its income from the sale of food and meeting the requirements of KRS 242.185(3) shall be eligible to receive a Sunday Retail Drink license. The hours of operation for a facility holding a Sunday Retail Drink license shall be the hours of ~~2:00 p.m.~~ **1:00 p.m.** to 12:00 a.m. on Sundays. This subsection does not exempt retailers from observing all other conditions and requirements under any other ordinance or laws of the Commonwealth of Kentucky. (KRS 244.290) A premise which has been granted a Souvenir Package Sunday Sale license shall be eligible to operate between the hours of noon to midnight on Sunday. **Convenience stores, grocery stores and packaged liquor stores which have been granted a Retail Beer License and/or a Distilled Spirits and Wine Retail Package License shall be eligible to operate between the hours of 1:00 p.m. to 12:00 a.m. on Sunday.**

(E) Private clubs which meet the requirements below shall be eligible to receive a Sunday Retail Drink license. The hours of operation for a facility holding a Sunday Retail Drink license shall be the hours of ~~2:00 p.m.~~ **1:00 p.m.** to 12:00 a.m. on Sundays. This division does not exempt retailers from observing all other conditions and requirements under any other ordinance or laws of the state (KRS 244.290). Eligible private clubs are those which have been granted all appropriate licenses for the sale of distilled spirits, wine and malt beverages which:

- (1) Having dining facilities with a minimum seating capacity of 100 people at tables;
- (2) Are non-profit, eleemosynary organizations with a membership of at least 200; and
- (3) Have been in existence for a period of at least two years.

(F) Per KRS 244.290, in years where December 31, (New Years Eve) falls on a Sunday, the hours of operation, on December 31, for any facility holding a valid distilled spirits and wine retail drink license, or a malt beverage retail drink license per §114.20, shall be from ~~2:00 p.m.~~ **1:00 p.m.** to 1:00 a.m., Monday morning January 1. This division ~~does not include Package Liquor Stores; nor does it not~~ exempt retailers from observing all other conditions and requirements under any other ordinance or laws of the state (KRS 244.290).

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

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

UPON MOTION OF COUNCILMAN WILLIAMS, DULY SECONDED BY COUNCILMAN ROYALTY, MAYOR HEATON CALLED THE ROLL AND THE FOLLOWING VOTED:

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

THE MAYOR DECLARED ORDINANCE NO. B2009-02 ADOPTED AND BE RECORDED IN ORDINANCE BOOK NO. \_\_\_\_\_, PAGE NO. \_\_\_\_\_.

SECOND READING - B2009-03 ALCOHOLIC BEVERAGE ORDINANCE AMENDMENT-FEE SCHEDULE

The ordinance was presented as follows:

**ORDINANCE NO. B2009-03**

**AN ORDINANCE AMENDING THE SALE OF ALCOHOLIC BEVERAGES**

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

That Section 114.20, LICENSES, CLASSIFICATION OF LICENSES; FEE SCHEDULE, be amended to reads as follows:

(A) For the privilege of causing, permitting, and engaging in the actions, business, and transactions authorized thereby in regard to the traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in the following schedule. The actions, business, and transactions authorized and permitted thereby ~~and the expiration dates thereof~~ shall be and are the same as those of the state licenses to which the city licenses correspond and which are indicated and described in the sections of state law indicated in the following schedule. The fees for such city licenses shall be the maximum allowed by law as indicated in the following schedule.

(B) No person shall cause, permit, or engage in any of the actions, business, or transactions authorized by such city and state licenses within the city without both a valid city licenses and a valid state license therefore:

DISTILLED SPIRITS AND WINE LICENSES

License Description	Statutory Authorization (KRS S)	Statutory Description Of Authorized Business And Transactions (KRS S)	Annual Expiration Date (KRS S 243.090)	Fee (Per Annum)
___ Distillers	243.040 (1) 243.070	243.120 243.130	June 30	\$140.00
___ Wholesalers	243.030 (6)	243.160 243.170	June 30	\$410.00
___ Retail Package	243.030 (7)	243.240	June 30	\$210.00
___ Retail Drink	243.030 (8)	243.250	June 30	\$420.00
___ Private Club	243.030 (17)	243.270	June 30	\$420.00
___ Caterer (Distilled Spirits and Wine)	243.030 (26)	243.033	June 30	\$100.00
___ Supplementary Caterer	241.010	243.033	June 30	\$ 50.00
___ *Wine by Drink		243.260	June 30	\$ 70.00
___ **Limited Sunday Drink (attach proof of 50% food sales)	243.030 (18)	244.290	June 30	\$180.00
___ Special Temporary (Special Event)	243.030 (16)	243.260	June 30	\$ 50.00 (Per Event)
___ Souvenir Retail Package	243.030 (27)	243.0305	June 30	\$150.00
___ Souvenir Retail Package (Sunday Sales	<u>Ordinance No. B2007-07</u>		June 30	<del>\$150.00</del> <u>No Charge</u>
___ ***Sampling Retail Drink	244.050 (2)	243.250	June 30	\$ 25.00
___ ***Sampling Retail Package	244,050 (2)	243,240	June 30	\$ 25.00
___ **** <u>Retail Package Sunday Sales</u>	<u>Ordinance No. B2009-02</u>		<u>June 30</u>	<u>No Charge</u>

MALT BEVERAGE LICENSES  
 T BEVERAGE LICENSES

License Description	Statutory Authorization (KRS S)	Statutory Description Of Authorized Business And Transactions (KRS S)	Annual Expiration Date (KRS S 243.090)	Fee (Per Annum)
___ Brewers	243.040 (1) 243.070	243.150	June 30	\$140.00
___ Distributors	243.040	243.150	June 30	\$140.00
___ Retailers (New Applicant/ Renewal)	243.040 (4), 243.070, 243.040 (4)	243.280	June 30	\$ 70.00
___ **** <u>Retailers Sunday Sales (Convenience Stores and Grocery Stores)</u>	<u>Ordinance No. B2009-02</u>		<u>June 30</u>	<u>No Charge</u>
___ Special Temporary (Special Event)	243.040 (7)	243.290	June 30	\$ 25.00 (Per Event)

\* Wine by drink in connection with a restaurant operation where whiskey by the drink is not available.

\*\* Limited Sunday Liquor Drink (Hours of operation shall be ~~2:00 pm~~ 1:00 pm–12:00 am) – Available holders of Liquor Drink Licenses that are restaurants with at least 100 seating for dining and receive at least 50 % of its gross annual income from the sale of food or Private clubs which have been granted all appropriate licenses for the sale of distilled spirits, wine and malt beverages which: (a) Have dining facilities with a minimum seating capacity of 100 people at tables; (b) Are non-profit, eleemosynary organizations with a membership of at least 200; and (c) Have been in existence for a period of at least two (2) years.

\*\*\* Sampling – Available holders that are retail drink and retail package sales that notify Office of Alcoholic Beverage Administrator 7 days in advance before conducting a sampling event. A sampling event is limited to a period not to exceed 4 consecutive hours between 12 noon and 8 p.m. Each sample size shall not exceed one (1) ounce of wine and one-half (1/2) ounce of distilled spirits. A customer must be limited to no more than six (6) wine and two (2) distilled spirits samples per day. All samples must be provided free of charge and at the licensed premises.

\*\*\*\* Limited Sunday Retail Package and Malt Beverage Retailers. (Hours of operation shall be 1:00 pm – 12:00 am on Sundays). Available to holders of Retail Package and Malt Beverage Retailers (Liquor Stores, Convenience Stores and Grocery Stores).

This ordinance shall take effect on July 1, 2009 and be in force upon its passage and publication as required by law.

**UPON MOTION OF COUNCILMAN ROYALTY, DULY SECONDED BY COUNCILMAN SIMPSON, 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 THEN DECLARED ORDINANCE NO. B2009-03 ADOPTED AND BE RECORDED IN ORDINANCE BOOK NO. \_\_\_\_\_, PAGE NO. \_\_\_\_\_.**

#### **DOWNTOWN STREETSCAPE PROJECT PHASE I AND II**

Historical Review Board Administrator Pen Bogert reviewed the Historical Review Board's recommendations for the project that was addressed at the Working Session held on May 5, 2009. A discussion followed on sidewalks and the elimination of trees in the project area. Councilman Simpson was in favor of the tree removals since they would be damaged during the waterline and sidewalk constructions. Mayor Heaton reported that most of the property owners were in favor of eliminating the trees on the first block of North Third Street. David Hall, former HRB Preservation Administrator, thought that the trees on the second block of North Third Street should be considered separately from the trees on the first block. He also believed that the property owners should have a voice in the decision whether their trees were removed. He recommended that the Council consider the historic nature of the area and the disruption that the project would cause. The Mayor said that the work would be completed in phases and should not cause too much disruption. Tom Hall said that the tree in front of his property took 35 years to grow and a lot of tourists and visitors used it for shade. Proposed sidewalks were also discussed. Mayor Heaton then recommended that the Council table the matter and that he would ask the Streetscape Steering Committee to reconvene for further discussion of the issues. **UPON MOTION OF COUNCILMAN WILLIAMS, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED BY A VOTE OF 6 TO 0, THE STREETSCAPE PROJECT PHASE I AND II APPROVAL WAS TABLED.**

#### **CITY/COUNTY PLANNING COMMISSION BUDGET/DRB/HRB FEES**

It was reported that Nelson Fiscal Court did not recommend that the Commission's fees be changed. Councilman Royalty agreed that the fees not be increased due to the economy and growth concerns. He said that the fees could be revisited at a later time. Councilman Reed and Councilman Williams were concerned with the possibility that the City's contribution to the Planning Commission would increase and would, in turn, negatively affect all the taxpayers. Mayor Heaton said that the proposed fee increases were fairly minor and the Planning Commission had made major cuts in its budget. Since the County had not supported the increase, the Planning Commission has canceled the upcoming Public Hearing on the matter.

A discussion was then held on the Development Review Board fees that would need to be approved by the City and County. Councilman Reed said that he would like to review the City's proposed budget prior to making a decision on increases. Mayor Heaton asked that Councilman Williams and Councilman Royalty meet with County representatives to further discuss all fees.

Mayor Heaton recommended that the Historical Review Board make a recommendation to the Council on possible fee changes prior to discussion. The Council concurred.

#### **KU MAINTENANCE AGREEMENT**

City Electrical Engineer Mills presented the agreement with Kentucky Utilities for general service maintenance for the City's breakers and substations that was reviewed at the 5-5-09 Working Session. City Attorney Donan reviewed the contract and said that he recommended that the Council authorize the Mayor to sign it. **UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN SHECKLES AND CARRIED BY A VOTE OF 6 TO 0, THE MAYOR WAS AUTHORIZED TO EXECUTE THE AGREEMENT.**

#### **KENTUCKY UTILITIES RATE INCREASE**

The City Electrical Engineer reported that the negotiated rate had been accepted with Kentucky Utilities and the new rate would be in effect July 1, 2009. An Electric and Cable TV Committee meeting will be held on Tuesday, May 19, 2009 at 5:00 p.m. in the Mayor's Conference Room to discuss possible rate increases. A Public Hearing would be scheduled prior to the City Council meeting on May 26, 2009 at 7:00 p.m. A first reading of the electric rate ordinance could be scheduled for the first Council meeting in June.

#### **STOP SIGNS**

Mayor Heaton opened discussion on the stop sign requests for a three-way stop at Caldwell and Butler and a four-way stop at Purcell and Butler. The Council believed that the stop signs would help reduce speeding vehicles in the area. Chief Marksbury had some doubts that the signs would make a difference. Further discussion was held with the consensus being that the stop signs would

help with the speeding problem. UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED, IT WAS APPROVED TO INSTALL A THREE-WAY STOP AT CALDWELL AND BUTLER, AND A FOUR-WAY STOP AT MCGOWAN AND BUTLER AND PURCELL AND BUTLER. Councilman Sheckles did not vote.

The request to install a four-way stop at East Daugherty and Allison Avenue was discussed and the Public Works and Engineering Director recommended approval. UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED, IT WAS APPROVED.

City Civil Engineer Greenwell recommended that a stop sign be installed exiting from Save-A-Lot at the end of the frontage road off KY 245. UPON MOTION OF COUNCILMAN ROYALTY, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED IT WAS APPROVED.

#### RIGHT-OF-WAY DEDICATION

City Civil Engineer Greenwell reported on the County's widening project to construct turn lanes at Parkway Drive and US 150/Springfield Road. The County wants to dedicate a portion of right-of-way on Parkway Drive from US 150 to the first entrance into the Parkway Baptist Church to the City. UPON MOTION OF COUNCILMAN WILLIAMS, DULY SECONDED BY COUNCILMAN REED AND CARRIED BY A VOTE OF 6 TO 0, IT WAS APPROVED TO ACCEPT THE RIGHT-OF-WAY AS SHOWN ON THE PLAT PRESENTED.

#### POLICE DEPARTMENT REPORT

Police Chief Marksbury reported that so far, six tasers had been delivered to the department.

#### CLG GRANT

HRB Administrator Bogert reported that he had received the grant in the amount of \$9,950.00. Mayor Heaton thanked him for his work on the grant application.

#### CITY HEALTH INSURANCE

Assistant City Administrator Green reported that he would be working on changes to the City's health insurance to be presented to the Council in June.

#### CEMETERY DEEDS

Cemetery deeds were presented for Teresa Clark and James and Helen Tingle. UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN SHECKLES AND CARRIED BY A VOTE OF 6 TO 0, THE DEEDS WERE APPROVED.

#### CITY FIVE-YEAR ANNIVERSARY

Mayor Heaton announced that Steve Hatler, City Code Enforcement Officer, was celebrating his five-year anniversary with the City this month.

#### CEMETERY COMMITTEE MEETING

Councilman Simpson announced that there would be a Cemetery Committee meeting on Wednesday, May 13, 2009 at 8:30 a.m. in the Mayor's Conference Room at City Hall.

#### ADJOURNMENT

Being no further business to discuss and UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, THE MEETING WAS ADJOURNED AT 8:45 PM.

CITY OF BARDSTOWN

ATTEST:

\_\_\_\_\_  
J. Richard Heaton, Mayor

\_\_\_\_\_  
Bobbe Blincoe, City Clerk