

**CITY OF BARDSTOWN
REGULAR COUNCIL MEETING MINUTES**

**11-24-09
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 Royalty
Councilman Sheckles
Councilman Simpson

Others present: Police Chief Marksbury, Chief Financial Officer Abell, Public Works and Engineering Director Hamilton, City Civil Engineer Greenwell, City Electrical Engineer Mills, City Attorney Donan, City Clerk Blincoe, WBRT/WOKH reporter Fred Hagan, WYSB reporter Tom Redmon, The Kentucky Standard reporter Stephanie Hornback, Historical Review Board Administrator Bogert, Neil Cooke and David Hall.

CHANGE ORDER NO. 1 - MAGO BOOSTER PUMP STATION

City Civil Engineer Greenwell presented Change Order No. 1 for DeWeese Construction, Inc. for a decreased amount of \$21,300.00 for the Mago Booster Pump Station Project. This is an adjustment to the contract price for additional engineering services in the amount of \$21,300.00 necessary due to construction time beyond the contract time allowed. The net project costs would be \$0.00. **UPON MOTION OF COUNCILMAN WILLIAMS, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, CHANGE ORDER NO. 1 WAS APPROVED.**

SECOND READING - REZONING REQUEST #2322-DORMAR, LLC (MARY LYNN SMITH)

A second reading of an ordinance was presented on rezoning request #2322 from Dormar, LLC to designate 0.36 acre at 611 North Third Street (Lot A and Tract 2, Amended Henry Addition (Dormar, LLC, PC 12, Slot 106) as B-3/PUD (Option #1 & 2), Regional Retail Business District as follows:

ORDINANCE NO. B2009-23

AN ORDINANCE AMENDING AND ADOPTING AS AMENDED ZONING MAP, ENTITLED, "ZONING MAP, CITIES OF BARDSTOWN, BLOOMFIELD, FAIRFIELD, NEW HAVEN, AND NELSON COUNTY, KENTUCKY" TO DESIGNATE THE DISTRICT CLASSIFICATION OF THE PROPERTY LOCATED IN BARDSTOWN, KENTUCKY, AS HEREINAFTER DESCRIBED AS B-3/PUD (OPTION #1 and #2), REGIONAL RETAIL BUSINESS DISTRICT.

WHEREAS, the Joint City-County Planning Commission of Nelson County, Kentucky, on October 13, 2009, held a public hearing on the Application No. 2322 of Dormar, LLC (Mary Lynn Smith) to designate 0.36 acre at 611 North Third Street (Lot A & Tract 2, Amended Henry Addition (Dormar, LLC), PC 12, Slot 106) as B-3/PUD, Option #1 and 2, Regional Retail Business District.

WHEREAS, the City Council members conducted a review of the record and evidence presented before the Joint City-County Planning Commission of Nelson County, Kentucky; and

UPON MOTION OF Councilman Reed, duly seconded by Councilman Williams and carried, the City Council approved the recommendation from the Planning and Zoning Commission to approve the rezoning request.

NOW THEREFORE, be it ordained by the Bardstown City Council that:

Boundaries of the district as shown on district map, entitled, "**ZONING MAP, CITIES OF BARDSTOWN, BLOOMFIELD, FAIRFIELD, NEW HAVEN AND NELSON COUNTY, KENTUCKY**" are hereby amended for reasons adopted and all of which are made a part hereof as if fully set out herein, including the letter of recommendation dated October 30, 2009, from the said Joint City-County Planning Commission of Nelson County to the Bardstown City Council and the property is described as follows:

"Being Lot A and Tract 2 of the Amended Henry Addition (Dormar, LLC) as shown on Plat of record in Plat Cabinet 12, Slot 106, in the Nelson County Clerk's office containing 0.36 acre."

This ordinance shall be in full force and effect following publication as required by law.

This ordinance or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN WILLIAMS, 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. B2009-23 ADOPTED AND BE RECORDED IN ORDINANCE BOOK NO. 10, PAGE NO. _____.

HISTORICAL REVIEW BOARD RECOMMENDATIONS

Mayor Heaton and the Council reviewed the proposed Fee Schedule that will be approved by the Planning Commission. The Council questioned the difference in charges for building demolitions. HRB Administrator Bogert explained that the difference in charges was due to the size of the building and whether it was for a building demolition or for a partial demolition or demolition of an accessory building. He emphasized that the fees were based on the amount of time spent on the review process for the application.

The HRB recommendations were then presented as follows:

A. Certificates of Appropriateness

1. COA #09-48 [RECOMMENDED]

Roland Gabbert proposes to increase the parking area next to his office at 321 W. Stephen Foster Ave. to include 9 spaces. This proposal will leave 39% greenspace, which exceeds the 20% minimum required by P-1 zoning. The proposal also is within the minimum (7) and maximum (12) number of spaces required by the 2,384 square footage of the building. There will be a landscaping berm provided on the south side of the existing drive.

Recommendation: To recommend approval of the proposal to expand the parking area at 321 W. Stephen Foster Ave., as specified in this application.

2. COA #09-50 [RECOMMENDED]

Michael Coen proposes to install a 3' x 3' aluminum hanging sign, with edge trim, at 108 W. Flaget Ave. The sign will be beige with brown letters and trim and will extend about 3'-4' from the building.

Recommendation: To recommend approval of the proposal to install a 3' x 3' hanging sign at 108 W. Flaget Ave., as specified in this application.

3. COA #09-52 [RECOMMENDED]

NTSJ Restorations, LLC proposes to rehabilitate the residence at 113 S. Third St. The exterior alterations requiring review include: replacing the wrought iron porch posts with historically accurate wood posts and brackets; adding small plantings to the front of the house; and possibly uncovering and restoring original Eastlake-style porch detail. Other exterior alterations, such as paint color, will be submitted for HRB review at a later date. In-kind exterior repairs, not requiring HRB review, include replacing the garage roof, repairing storm damage to roof and weatherboard, repairing the box gutter, repairing siding and corner posts, and painting the historic wrought iron fence black.

Recommendation: To recommend approval of the proposal to replace the wrought iron porch posts with historically accurate wood posts and brackets, add small plantings to the front of the house. and possibly uncovering and restoring the original Eastlake-style porch detail, as specified in this application.

B. Staff Approvals [AFFIRMED]

1. On October 8 staff gave approval to Mike Abell to remove a large diseased maple tree at the rear of his residence at 113 E. Broadway. City Arborist Phillip Grubbs examined the tree and said that it was diseased and a threat to his house. Mr. Abell will replace it with a canopy tree elsewhere on the property.

2. On October 19 staff gave approval to the owner of Hadorn's Bakery to replace the gray shingle roof with Owens Corning Chateau Green 40-year shingles.

3. On October 27 staff gave approval, as discussed at the 10/12 HRB meeting, for metal roof color (Hartford Green), siding color (Valspar "Tailored Linen #40003), and trim color (Valspar "Urban Gold" #40002) for Kandice Walton's residence at 317 Raspberry Alley.

4. On November 2 staff gave approval for removal of large bushes in front of the house at 113 S. Third St., removal of a large damaged and hazardous tree, and the removal of a fir tree that was planted too close to the rear of the house. Phillip Grubbs, City Forester, stated that the large tree posed a hazard to the house.

C. Proposed Fee Schedule

The HRB voted to recommend the proposed Certificate of Appropriate fee schedule [see attached] to the Joint City-County Planning Commission for approval.

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

UPON MOTION OF COUNCILMAN WILLIAMS, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED BY A VOTE OF 6 TO 0, THE RECOMMENDATION ON ITEM NO. 1 FOR ROLAND GABBERT WAS APPROVED.

(COUNCILMAN ROYALTY LEFT THE COUNCIL CHAMBERS DUE TO A POSSIBLE CONFLICT OF INTEREST). UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN SHECKLES AND CARRIED BY A VOTE OF 5 TO 0, THE RECOMMENDATION ON ITEM NO. 2 FOR MIKE COEN WAS APPROVED. (COUNCILMAN ROYALTY RETURNED TO THE COUNCIL CHAMBERS).

UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, THE RECOMMENDATION ON ITEM NO. 3 FOR NTSJ RESTORATIONS WAS APPROVED.

UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THE RECOMMENDATION ON THE FOUR STAFF APPROVALS WAS APPROVED.

FIRST READING - SECOND AMENDMENT TO LOAN AGREEMENT-ORBIS CORPORATION

Attorney Mike Harrington, Stites and Harbinson, PLLC, reviewed the ordinance with the Council prior to the first reading. This ordinance was just to substitute the borrower, Orbis Corporation, for a 1999 Industrial Revenue Bond. The bond structure will remain the same and the City will have no liability. Lincac Materials was the original borrower. The first reading was then presented of the ordinance authorizing the execution and delivery of a second amendment to the loan agreement between the City and Orbis Corporation related to the \$6,200,000 City of Bardstown adjustable rate industrial building revenue bonds, series 1999 and any and all other related documents. **UPON MOTION OF COUNCILMAN WILLIAMS, DULY SECONDED BY COUNCILMAN REED AND CARRIED BY A VOTE OF 6 TO 0, THE FIRST READING WAS APPROVED.**

DOWNTOWN STREETScape PROJECT

Mayor Heaton acknowledged that letters received from former Historical Review Board Administrator David Hall helped the state and local officials address concerns that the proposed Streetscape project would make it difficult for tractor-trailers to maneuver in the Court Square area. The Mayor said that as a result of the meetings held with Nelson County Judge Executive Watts, City and County engineers, state engineers and Hibbs Engineering, the width of the driving lanes around the old Courthouse will be revisited by the design engineers. David Hall thanked the Mayor, Council, City staff and the County government for addressing the matter and the Mayor thanked Hall for voicing his concern for the community.

Public Works and Engineering Director Hamilton updated the Council on the construction process for the Streetscape Project that will include hiring a resident engineer to oversee that the work is accomplished according to the specifications.

MINUTES

The minutes from the 11-10-09 regular City Council meeting were then presented and **UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN REED AND CARRIED BY A VOTE OF 6 TO 0, THEY WERE APPROVED.**

FIRST READING - CATV ORDINANCE AMENDMENT-LATIN TIER AND TV JAPAN

City Electrical Engineer Mills presented an ordinance that would launch a Latin tier and TV Japan to the Bardstown Cable TV system. The system now has the capacity to offer these additions. The Latin tier will cost \$5.00 per month and TV Japan will cost \$15.00 per month for subscribers and they must have Expanded Basic service and a digital gateway or CableCARD system. The first reading of the ordinance was then presented. **UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THE FIRST READING WAS APPROVED.**

MUNICIPAL ORDER NO. 2009-20-ASSESSMENT MORATORIUM CERTIFICATE-113 SOUTH THIRD STREET

The Mayor presented Municipal Order No. 2009-20 for property located at 113 South Third Street as follows:

MUNICIPAL ORDER NO. 2009-20

RESOLUTION

A RESOLUTION ACCEPTING THE APPLICATION FOR AN ASSESSMENT MORATORIUM CERTIFICATE FOR THE PROPERTY LOCATED AT 113 SOUTH THIRD STREET, 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 113 South Third Street, 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 WILLIAMS, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED BY A VOTE OF 6 TO 0, MUNICIPAL ORDER NO. 2009-20 WAS APPROVED.

RECREATION BOARD MEETING RESCHEDULED

Councilman Reed announced that the Recreation Board meeting was rescheduled to Thursday, December 3, 2009.

CEMETERY COMMITTEE MEETING

Councilman Simpson reported on the Cemetery Committee meeting that was held on Wednesday, November 11, 2009. Two large trees, one in the Bardstown Cemetery and one in the Pioneer Cemetery, will be removed by Asplundh Tree Service. City Groundskeeper Phillip Grubbs will be supervising the removals. Some vandalism was reported in the Bardstown Cemetery and the City Police Chief will contact the parents of the children involved. PLG-TV aired a short segment on the situation a few days after the meeting.

CEMETERY DEEDS

Cemetery deeds were presented for James Waldorf, Ronald and Cindy Vowels, Reed Farris and Bernard and Bobby Clayton. UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN REED AND CARRIED BY A VOTE OF 6 TO 0, THEY WERE APPROVED.

CHRISTMAS PARADE

Police Chief Marksbury announced that the Christmas Parade would be held on Thursday, December 3, 2009 at 6:00 p.m. and there were 86 entries in the event.

He also reported that the Turkey Kick was set for Wednesday, November 25th.

PROTEST OF E.ON FERC FILING

City Electrical Engineer Mills reported that E.ON-US (Kentucky Utilities) had recently filed with FERC for approval of the termination of the Independent Transmission Organization ("ITO") agreement with the Southwest Power Pool ("SPP"). SPP has up to now, per FERC orders 888, 889 and 890, performed transmission tariff administration, system planning, and analysis functions for E.ON. The 12 KU-served cities, with the assistance of Spiegel & McDiarmid, are intervening at FERC protesting E.ON's request to assign the ITO functions to itself, in an effort to protect the City's interests in future transmission access.

SEPA

Mills reported that East Kentucky Power was not going to renew its arrangement in 2010 for the KY Municipal Electric SEPA allocations, as has been the case for 2008 and 2009. Owensboro Municipal Utilities has presented an offer for the allocations, which has been deemed by the KY Municipal SEPA preference customers as the best offer among those analyzed by R.W. Beck and Spiegel & McDiarmid. A draft agreement is being prepared for ratification.

LEE UTILITY CONSULTING

Chief Financial Officer Abell reported that he would discuss a proposal from Lee Utility Consulting to do a rate study and a review of the City's system development charges at the Working Session to be held on December 1, 2009 at 5:00 p.m.

STATE ADMINISTRATIVE CONFERENCE

Public Works and Engineering Director Hamilton reported that a conference would be held with the State Division of Enforcement on December 17, 2009 to discuss compliance with the Agreed Order and the status of the City's Sanitary Sewer Evaluation Study (SSES). The state will also meet with the City and the City of Bloomfield to discuss the merging of flows from the two systems. An agreement with Bloomfield will need to be finalized along with a schedule of events for the state.

Hamilton updated the Council on a proposal from Horizon Engineering for bid specifications for flow monitoring and televising work on the Withrow Creek and Town Creek sections of the sewer system. This work will help identify the problem areas. **UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN REED AND CARRIED BY A VOTE OF 6 TO 0, IT WAS APPROVED TO HIRE ROBIN MILLS, HORIZON ENGINEERING, FOR \$6,000.00 PER MONTH FOR THREE MONTHS TO DRAW UP BID SPECIFICATIONS FOR WORK ON THE SSES PROGRAM.**

CHANGE ORDER NO. 2 - TOWN CREEK INTERCEPTOR PROJECT

Hamilton then presented Change Order No. 2 for the Town Creek Interceptor Project for the additional clearing to go from a 30-inch pipe to the existing pipe on the Jaycee Park side of the creek and for additional creek crossings in the total amount of \$17,942.00 to the contract with Hall Contracting. The time allowed for the work will be negotiated. **UPON MOTION OF COUNCILMAN ROYALTY, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, CHANGE ORDER NO. 2 IN THE TOTAL AMOUNT OF \$17,942.00 WAS APPROVED.**

WATER TREATMENT PLANT PROJECT AMENDMENT #3

Hamilton discussed alternatives and recommendations for changes to the Water Treatment Plant Project. The amended design agreement by O'Brien & Gere was presented for changes to Phase I construction to add the renovation of low service pumps for treatment units 1 and 2, including new pumps, piping and electrical renovation to facilitate that all low service pumps have the ability to fill the proposed 1.0-MG Clearwell tank for a total amended amount of \$50,000.00. **UPON MOTION OF COUNCILMAN ROYALTY, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED BY A VOTE OF 6 TO 0, AMENDMENT NO. 3 WAS APPROVED.**

EXECUTIVE SESSION PURSUANT TO KRS 61.810 (1)(g)

Mayor Heaton announced that the Council needed to go into an Executive Session pursuant to KRS 61.810 (1) (g), discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion or upgrading of the business. **UPON MOTION OF COUNCILMAN SHECKLES, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THE COUNCIL WENT INTO AN EXECUTIVE SESSION AT 8:30 PM.**

UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, THE COUNCIL CAME OUT OF EXECUTIVE SESSION AT 8:55 PM.

The minutes will reflect that no official action was taken during the Executive Session.

ADJOURNMENT

Being no further business to discuss and **UPON MOTION OF COUNCILMAN ROYALTY, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, THE MEETING WAS ADJOURNED AT 9:06 PM.**

ATTEST:

Bobbe Blincoe, City Clerk

CITY OF BARDSTOWN

J. Richard Heaton, Mayor