

**Opening**

The City Council of the City of Independence, Kentucky met on Monday, October 6, 2014 at 7:00 p.m. in the Council Chambers of the Independence Municipal Center, 5409 Madison Pike, Independence, Kentucky with Mayor Donna G. Yeager presiding. Mayor Yeager called the meeting to order and opened with the Pledge of Allegiance. The invocation was given by Council Member Bushong. Roll was called and the following Council Members registered present: Bill Aseere, Tom Brinker, Jim Bushong, Carol Franzen, Mike Little and Chris Reinersman. Also present was City Administrator Chris Moriconi and City Clerk Patricia Taney.

**Executive Order No. 2014-EO-05 – Appointing John J. Osterhage as Interim City Attorney**

City Administrator Chris Moriconi read Mayor Yeager's Executive Order No. 2014-EO-05 appointing John J. (Jack) Osterhage as City Attorney during Jed K. Deter's absence.

**Approval of the September 8, 2014 Council Meeting Minutes**

Mayor Yeager called for a motion to approve the minutes of the regular meeting held on Monday, September 8, 2014. Council Member Franzen so moved, with second by Council Member Aseere. No amendments to the minutes were noted and the motion carried with all ayes.

**Approval of the September 12, 2014 Special Council Meeting Minutes**

Mayor Yeager called for a motion to approve the minutes of the special meeting held on Friday, September 12, 2014. Council Member Reinersman so moved, with second by Council Member Brinker. No amendments to the minutes were noted and the motion carried with all ayes.

**Ordinance No. 2014-O-10 – Approving a Text Amendment Adding Construction Standards for Exterior Materials, Roofs and Mechanicals to the NC, NSC & PO Zones – 2<sup>nd</sup> Reading**

Mayor Yeager presented Ordinance No. 2014-O-10 for a second reading. This ordinance would approve a text amendment to the official zoning ordinance that would add regulations to building design criteria specifically exterior wall materials, roofs and mechanicals in the Neighborhood Commercial (NC), Neighborhood Shopping Center (NSC) and the Professional Office (PO) zones.

Council Member Reinersman commented that the reference to architectural grade building materials in each zone should be eliminated as this was discussed and agreed upon at the public hearing held by the Planning Commission. No objections were noted to his suggestion and the language will be stricken from the final text amendment.

A motion was made by Council Member Bushong and seconded by Council Member Reinersman to adopt Ordinance No. 2014-O-10. Roll was called and answered unanimously. Motion carried 6-0.

**Resolution No. 2014-R-10 – Approving an Interlocal Agreement with PDS for Code Enforcement Administration and an Agreement for PDS Levels of Service (One Stop Shop)**

City Administrator Chris Moriconi presented Resolution No. 2014-R-10 that would authorize an Interlocal agreement with the Planning Commission for administration of the city's zoning ordinance, property maintenance codes and other related local ordinances along with a cost sharing agreement to provide the service.

Mr. Moriconi explained to Council that the ensuing four items on tonight's agenda were dependent on the adoption of Resolution No. 2014-R-10 which would solidify the decision to go with the Planning Commission for zoning related services and the other business items are relative to entering into this agreement. Mr. Moriconi introduced Dennis Gordon, Executive Director of the Planning Commission (PDS) and Martin Scribner, Director of Planning and Zoning Administration, also with PDS.

Council Member Reinersman stated there are concerns regarding the fee schedule and asked Mr. Gordon to explain the reason behind the fee structure. Mr. Gordon explained at the time the One-Stop-Shop was established a committee was formed to look at the costs associated with the administration of the service and the fees were structured based on the actual costs in an effort to recover most of the those expenses. He stated the fees increase every other year using the Consumer Price Index. Mr. Gordon also commented that the Home Builders Association actually prefers small incremental adjustments to the fee schedule so they can calculate this annually along with their other building costs. Council Member Reinersman commented that the City's fee schedule has not been increased in some time.

Council Member Little asked how many cities that are currently using the One-Stop-Shop. Mr. Gordon advised they currently work with fifteen cities as well as the Kenton County Fiscal Court. Mr. Gordon was asked if they City decided to contract for the zoning services would a full time staff member from the PDS be assigned to Independence and work from the City building. Mr. Gordon advised he would assign a person to handle Independence full-time and would have a satellite office in the city building.

Council Member Little commented that after the transition period there would be a cost savings for the City by going with the PDS for the zoning and code enforcement services. Mr. Moriconi confirmed, that based on the numbers provided by Mr. Gordon, the City should realize an annual savings of around \$40,000.

Council Member Franzen commented that in years past the City had contracted with PDS but eventually left and hired a full time employee. She asked Mr. Gordon how contracting with the PDS will be different this time. Mr. Gordon invited Council Member Franzen to get references from the mayors of the cities they contract with as well as the County Judge Executive who can advise her how the services have worked for them.

Council Member Reinersman asked Mr. Gordon to explain their permit and complaint tracking software program to the Council. Mr. Gordon advised the PDS software program is accessible 24/7 making it very efficient and convenient for the citizens and staff. Complaints are received immediately into the system and with a user name and password that can be provided to the Council Members and City staff, it can be accessed any time, day or night. The program also keeps a history of permits issued.

Council Member Little confirmed that the contract can be terminated with a sixty day notice if the City decides they want to discontinue the service. Mr. Gordon stated that outstanding business could be wrapped up sooner than sixty days if possible.

Marge Cook, 96 Carrie Way – Commented that PDS receives approximately \$450,000 in taxes from the Independence citizens and questioned the cost savings for the citizens. She asked how the zoning violation complaints would be handled. Mr. Moriconi stated they would be handled on a complaint basis only. Mr. Gordon responded that PDS receives tax dollars from all the cities they serve. He also commented that PDS would handle the complaints proactively or complaint basis only – based on the directive from the City. He stated they would only be proactive if requested by the City.

Mr. Moriconi advised that part of entering into this agreement with PDS would include the need to disband the City's Board of Adjustment and the Code Enforcement Board. Mr. Gordon said that disbanding these City boards and becoming a member of the countywide Board the City would get a broader perspective regarding decisions rendered by the Board. Council Member Little asked if the City could opt to keep these Boards in-house. Mr. Gordon said that not all the cities are part of the joint Board so Independence would have the option to keep their own Boards. He stated the City would haven an appointee on both countywide boards.

There being no further discussion, Mr. Moriconi read Resolution No. 2014-R-10. A motion was made by Council Member Reinersman and seconded by Council Member Little to approve Resolution No. 2014-R-10 to enter into an Interlocal agreement with PDS for code enforcement administration as well as an agreement for their levels of service. Roll was called and answered with three ayes from Council

Members Reinersman, Little and Brinker and three no votes cast by Council Members Franzen, Aseere and Bushong. Mayor Yeager broke the tie vote with an aye. Motion carried 4-3.

**Proposed Ordinance – Adopting PDS Zoning Permit Fee Schedule – 1<sup>st</sup> Reading**

Mr. Moriconi presented to Council a proposed ordinance that would modify Chapter 155 of the official code of ordinances adopting a new set of zoning administrative fees to coincide with PDS and making such fees uniform. Mr. Moriconi gave the proposed ordinance a first reading.

**Proposed Ordinance – Disbanding the City Board of Adjustment – 1<sup>st</sup> Reading**

Mr. Moriconi presented to Council a proposed Ordinance that would modify Chapter 35 of the official code of ordinances to delete Board of Adjustment provisions in its entirety as the Board of Adjustments is being provided by an Interlocal agreement with the Planning and Development Services (PDS) of Kenton County. Mr. Moriconi gave the proposed ordinance a first reading.

**Proposed Ordinance – Disbanding the City Code Enforcement Board – 1<sup>st</sup> Reading**

Mr. Moriconi presented to Council a proposed Ordinance that would modify Chapter 39 of the official code of ordinances to delete Code Enforcement provisions in its entirety as the Code Enforcement Board is being provided by an Interlocal agreement with the Planning and Development Services (PDS) of Kenton County. Mr. Moriconi gave the proposed ordinance a first reading.

**Resolution No. 2014-R-11 – Approving an Interlocal Agreement to Join the City/County Code Enforcement Board**

Mr. Moriconi presented to Council Resolution No. 2014-R-11 that would approve the Interlocal agreement joining the joint City-County Code Enforcement Board and authorizing the execution thereof.

A brief discussion ensued. Council Member Little stated he didn't realize the City could opt to keep our own Code Enforcement Board. Council Member Reinersman suggested this could be decided at the next meeting to give everyone a chance to give this further consideration.

A motion was made by Council Member Franzen and seconded by Council Member Aseere to table action on Resolution No. 2014-R-11. Motion carried with all ayes.

**Proposed Ordinance – Approving an Annexation by Request of Revere's Crossing LLC for 24.50 Acres Lying Adjacent to the Existing Revere's Crossing Subdivision on the North Side of Fowler Creek Road – 1<sup>st</sup> Reading**

A proposed ordinance was introduced that would annex 24.5 acres of land adjacent to the existing Revere's Crossing Subdivision on the north side of Fowler Creek by consent of the land owner, Revere's Crossing LLC. Mr. Moriconi gave the proposed annexation ordinance a first reading.

**Proposed Ordinance – Approving an Annexation by Nicholson Properties LLC for 34.544 Acres of Land Lying on the Northeast Corner of the Intersection of KY17 & KY16 – 1<sup>st</sup> Reading**

A proposed ordinance was introduced that would annex 34.544 acres of land on the north east corner of the intersection of KY17 and KY16 by consent of the land owner, Nicholson Properties LLC. (This property is part of Ordinance No. 2013-O-08 that declared the City's intent to annex multiple parcels in this area of KY17. The property owners in the annexation area proposed to be annexed has filed opposition with the City thereby causing the issue to be placed on the November 4, 2014 general election ballot in accordance with State law. Depending on the outcome of the election, this annexation will be discussed at the City's next meeting of Council.) Mr. Moriconi gave this proposed ordinance a first reading.

**Attorney's Report – John J. Osterhage**

Mr. Osterhage did not have anything to report.

### **City Administrator Report – Chris Moriconi**

Award Bid for Banking Services - Mr. Moriconi reported bids for the City's banking services was advertised and five proposals were received. The five banks submitting bids included Heritage Bank, Bank of Kentucky, US Bank, Fifth Third Bank and Republic Bank. He stated that the City's Finance Director, Terri Hudson has analyzed the fee schedule and services being proposed by each bank and submitted in the Council packet for consideration. Mr. Moriconi state that while all the banks are reputable local banks, Heritage Bank is being recommended to service the City's banking needs because of the net earnings, account services needed by the City, fees, etc. He stated that Mrs. Hudson did a good job reviewing the bids and feels comfortable that Heritage Bank will be able to provide all the services the City needs while providing a net earnings better than the rest of the proposals. Mr. Moriconi stated the effective date to change from Park National Bank to Heritage Bank would be January 1, 2015.

A motion was made by Council Member Aseere and seconded by Council Member Bushong to award the City's banking services to Heritage Bank effective January 1, 2015. Roll was called and answered with five ayes with Council Member Reinersman abstaining from voting. Motion carried.

Auction Proceeds – Mr. Moriconi reported the City's surplus property items placed the Kenton County auction netted approximately \$23,000 in revenue which is more than was budgeted for auction revenue.

Parks – Mr. Moriconi reported that new rubber mulch has been installed in the playground area of Memorial Park. He said it looks great and the City received a partial grant of \$3,000 to offset the cost.

### **Mayor's Report – Donna G. Yeager**

Mayor Yeager announced that Halloween trick-or-treating hours would be from 6-8 p.m. on Friday, October 31, 2014.

### **Privileges of the Floor**

Jay Huber – State President of the Kentucky Motorcycle Association – addressed Council about promoting a drive-in bike night at the new Throttle Stop Bar and Grill on Taylor Mill Road similar to the bike night at the Quaker Steak and Lube in Florence. He said these weekly bike events draw a lot of business to the restaurants. He stated they want to have outdoor music at the Throttle Stop but has been informed of the City's zoning regulations that would prohibit sound amplifying equipment. He stated this was news to him as he knows of other businesses and events in the City that have had outdoor music. Mr. Huber said he would like to work with the City to get these regulations changed.

Council Members Aseere and Franzen expressed concerns that the Throttle Stop (which was originally built as a public library) was too close to residential properties to change the regulations that would allow outdoor music. Council Member Franzen stated the outdoor music that is permitted in the Towne Center is only one weekend per year and is in conjunction with the City's annual July 4<sup>th</sup> Celebration. She stated the Throttle Stop location is surrounded by homes. Mr. Huber reiterated that they would only have outdoor music one a week during the summer months and would work with the City to keep the sound decibels within reason, etc.

Mr. Moriconi looked to the City Attorney for counsel on the procedure to change the current regulations. Mr. Osterhage believed the correct procedure would be a zoning text amendment and suggested the City get citizen input. Mr. Moriconi stated the Council could request a text amendment to change the regulations regarding outdoor music which would be submitted to PDS for review and then a public hearing and a recommendation would be made by the Kenton County Planning Commission for final review and consideration by the Council. Mr. Huber stated he would like to start the process now so this could be resolved by Spring 2015. Mr. Moriconi advised any change to the NSC zone would affect all NSC zones in the city. Mr. Osterhage advised he could draft a Resolution for Council to consider at the next meeting and decide if they want to proceed with a text amendment application. There was a brief discussion on the public hearing procedure and if the Planning Commission would recommend approval for a change but the City disapproved the recommendation and whether or not the City would then be required to hold it's own public hearing.

Rita Hauke – 5346 Oakview Court – questioned the difference between the loud noise of outdoor music and noise from fireworks that are set off at all hours of the night, not to mention the debris from those fireworks that land in her yard. Mr. Osterhage commented that many laws are difficult to enforce and not all laws get enforced as aggressively as we would like.

Sandra Brewster – 6674 Frontier Drive – stated she didn't see a problem with permitting outdoor music and thinks this allowing businesses to hold special events is a good way for those businesses to prosper. She commented that the outdoor concerts at the St. Cecilia Festival each year is very loud and she can still hear the music even with her windows closed.

**Cancellation of November 3, 2014 Regular Meeting**

Mayor Yeager announced she would like to cancel the regular meeting of November 3<sup>rd</sup> as it is the night before the general election and thought the candidates for office may want to do some last minute campaigning that night. Mr. Moriconi suggested holding a special meeting the following Monday on November 10, 2014. No objections were voice from the Council Members, so the November 3, 2014 meeting will be cancelled.

**Adjournment**

There being no further business, a motion was made by Council Member Bushong and seconded by Council Member Aseere to adjourn. Motion carried with all ayes and the meeting ended at 7:58 p.m.

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Donna G. Yeager, Mayor

ATTEST:

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Patricia H. Taney, City Clerk