

# **SPECIAL COUNCIL MEETING**

**Minutes of November 10, 2014**

**City of Independence, Ky.**

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## **Opening**

The City Council of the City of Independence, Kentucky met in a special session on Monday, November 10, 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 introduced members of the American Legion Moon Brothers Post 275 who led with the Pledge of Allegiance. The invocation was given by Council Member Bushong. It was announced that the Moon Brothers would be having an Inaugural Independence Ball at the Senior Center on Saturday, November 15, 2014 at 6:00 p.m. Tickets for his event are \$25 per person and will include dinner, dancing and an award ceremony that will honor some local citizens who have provided significant support to local veterans during the past year. 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.

## **Purpose of the Special Meeting**

City Administrator Chris Moriconi announced this Special meeting of Council was being held to discuss and take action on the following business items:

- Approval of the October 6, 2014 Meeting Minutes
- Presentation by Ken Holiday, Huff Realty – Discussion Regarding Development on Turkeyfoot Road
- Ordinance No. 2014-O-11 – Adopting PDS Zoning Permit Fee Schedule – 2<sup>nd</sup> Reading
- Ordinance No. 2014-O-12 – Disbanding the City Board of Adjustment – 2<sup>nd</sup> Reading
- Resolution No. 2014-R-11 – Approving an Interlocal Agreement to Join the City/County Code Enforcement Board
- Ordinance No. 2014-O-13 – Disbanding the City Code Enforcement Board – 2<sup>nd</sup> Reading
- Ordinance No. 2014-O-14 – 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 – 2<sup>nd</sup> Reading
- Proposed Ordinance – Approving an Annexation of Approximately 46.225 Acres Lying on the Easterly Side of Relocated KY SR17, South of Maple Tree lane and North of Taylor Mill Road (SR16) at its Intersection with Said Relocated Hwy SR17 – 1<sup>st</sup> Reading
- Proposed Ordinance – Regulating the Containment of Fowl and Other Similar Animals Within the City Limits – 1<sup>st</sup> Reading
- Resolution No. 2014-R-12 – Opposing the Kentucky State Auditor Recommendation of Revising the Governance Structure of the Kenton County Airport Board
- Executive Session (only if necessary)

Mr. Moriconi advised that only the items listed on this agenda would be discussed at this meeting.

## **Approval of the October 6, 2014 Council Meeting Minutes**

Mayor Yeager called for a motion to approve the minutes of the regular meeting held on Monday, October 6, 2014. Council Member Reinersman so moved, with second by Council Member Bushong. No amendments to the minutes were noted and roll was called and answered unanimously. Motion carried 6-0.

**Presentation by Ken Holiday, Huff Realty – Discussion Regarding Development on Turkeyfoot Road**

Mr. Holiday advised Council he is a commercial realtor with the Huff Group and is working with the current owner - Lakeside Christian Church - to market approximately 35 acres of land on Turkeyfoot Road near the Industrial Road intersection which the Church purchased seven years ago. He stated the church purchased the land with the intent to build a new church as they are landlocked at their current location on Buttermilk Pike in Lakeside Park. He stated that several years ago the land was owned by a development company that came before Council with a request for a rezoning of the land along with a development plan that included Remke's grocery moving across the street into a new building along with other out lots. In 2008 Remke's backed out of the new development and the church purchased the land in 2009 with the intent to build a mega church. Since that time they have decided to build smaller satellite churches and are now in the process of selling this land.

Mr. Holiday stated there is interest from Thomas More College to build student housing on a section of this development tract and the church is asking the City to consider a rezoning that would permit this type of land use. Mr. Holiday went on to discuss the condemned Heritage Park Apartment complex that sits adjacent to the church land and which has recently been purchased by DMG Properties who renovated and renamed the complex Country Club Estates. He stated he would like to expand on the R-3 zone of the Country Club Estates as the current zone of the church property is NC (Neighborhood Commercial) and Thomas More College student housing development would require the R-3 zone. Mr. Holiday distributed an "Independence Gateway" booklet that provided various renderings and maps of the development area.

There was a brief discussion with Council regarding the Thomas More student housing as well as plans for the remaining out lots. Mr. Holiday advised the student housing would be three-floor apartment buildings totaling 108 units as well as a student housing center building which would encompass approximately eleven (11) acres of the development site. When asked about security for the student campus, he stated the college would be providing campus security at the student housing site. He also stated that Thomas More College would manage the student housing but not own the land as it would fall under a master lease.

Mr. Holiday advised the remaining out lots (approximately 24 acres) would remain a NC zone as a strip center is planned for the parcels along Turkeyfoot Road. He stated he is currently marketing the out lots but does not have firm commitments yet.

Mr. Moriconi advised Mr. Holiday that his next step would be to apply for a map amendment with the Planning and Development Services of Kenton County.

**Planning & Development Services – Dennis Gordon & Martin Scribner**

Mr. Moriconi introduced Dennis Gordon and Martin Scribner from the Planning & Development Services of Kenton County (PDS). He stated they would discuss and answer any questions regarding the next few items on the agenda which include the dissolution of the City's Board of Adjustment and Code Enforcement Board and then participating in the joint city/county code enforcement board.

Mr. Gordon first introduced Dennis Uchtman, Zoning Official who will be assigned to Independence as its Code Enforcement official.

Council Member Reinersman asked about the continuing education requirements for planning and zoning officials. Mr. Gordon stated that the required continuing education for planning and zoning officials, which would include Board of Adjustment members is 8 hours every two years. He stated the City would get an appointee to the regional Board if the City Board of Adjustment is disbanded. Council Member Reinersman expressed concerns that our current Board members are not current with their

continuing education hours as required by State law. Council Member Brinker commented that members of a regional board may be more objective in their rulings. Council Member Franzen stated that she agreed to a point, but was more concerned that the members of a regional board would not be familiar with our City. Mr. Gordon stated that each city feels they are unique and Independence is obviously geographically larger than other cities in Kenton County but a regional board will provide a more objective view.

Council Member Little asked if the City could withdraw from the joint board and still remain with the One Stop Shop. Mr. Gordon replied yes. He explained the differences in the Board of Adjustment and the Code Enforcement Board and advised that if they were not happy with the regional board, the City could drop out and recreate its own boards.

Council Member Franzen asked who would attend the Board of Adjustment meetings for the City. Mr. Gordon advised a PDS staff member would be appointed to handle a City hearing. Mr. Gordon stated the City would have a financial impact if it was decided to keep its own boards, possibly doubling the cost. He went on to give further explanation on the process, and staff involvement, for a Board of Adjustment hearing.

Council Member Reinersman agreed that by disbanding the boards the City would be giving up a certain amount of control but expressed concern regarding the needed continuing education of the board members. Mr. Gordon stated that twice a year PDS sends notice to the City that provides the hours of continuing education that each board member has logged, as well as notice of training opportunities. He stated they cannot compel training, but do offer it and that the appointing authority (City) can enforce training requirements for their board members. Council Member Aseere asked, of the sixteen entities that participate in the One Stop Shop, how many have their own boards. Mr. Gordon replied that about half of the cities have their own boards. Further discussion centered on the costs to keep the city boards versus joining the regional board and the impact it would have on the City. Council Member Franzen inquired about the cost involved with keeping the current boards. Mr. Gordon advised he would compile the cost information and Council could delay action on the Boards issue until the next meeting. Council Member Reinersman stated he would like to have the continuing education report on the City's current Board of Adjustment members also. Mr. Gordon stated he would get all the information to Council before the December meeting. He advised Council to take final action (second reading of the ordinance) now on adopting the zoning fee schedule as Mr. Uchtman has already assumed the position as zoning official for the City and the new fees need to be in effect as soon as possible.

**Ordinance No. 2014-O-11 – Adopting PDS Zoning Permit Fee Schedule – 2<sup>nd</sup> Reading**

A motion was made by Council Member Reinersman and seconded by Council Member Little to adopt Ordinance 2014-O-11. Roll was called and answered unanimously. Motion carried 6-0.

**Ordinance No. 2014-O-12 – Disbanding the City Board of Adjustment – 2<sup>nd</sup> Reading**

**Ordinance No. 2014-O-13 – Disbanding the City Code Enforcement Board – 2<sup>nd</sup> Reading**

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

A motion was made by Council Member Aseere and seconded by Council Member Franzen to postpone action on Ordinance No. 2014-O-12, Ordinance No. 2014-O-13 and Resolution No. 2014-R-11. Roll was called and answered unanimously. Motion carried 6-0.

**Ordinance No. 2014-O-14 – 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 – 2<sup>nd</sup> Reading**

Mayor Yeager presented for a second reading Ordinance No. 2014-O-14 that would approve the annexation, by request of Revere's Crossing LLC, of a 24.5 acre tract of land adjacent to the existing

Revere's Crossing Subdivision on the north side of Fowler Creek. The city attorney gave Ordinance No. 2014-O-14 a second reading.

A motion was made by Council Member Bushong and seconded by Council Member Franzen to approve Ordinance No. 2014-O-14. Roll was called and answered unanimously. Motion carried 6-0.

**Proposed Ordinance – Approving an Annexation of Approximately 46.225 Acres Lying on the Easterly Side of Relocated KY SR17, South of Maple Tree lane and North of Taylor Mill Road (SR16) at its Intersection with Said Relocated Hwy SR17 – 1<sup>st</sup> Reading**

City Attorney Jack Osterhage provided a first reading of a proposed ordinance that would annex approximately 46.225 acres lying on the easterly side of relocated KY SR17, just south of Maple Tree lane and north of Taylor Mill Road at the intersection with the said KY SR17. He reminded the Council they declared its intent to annex this land in 2013 with the adoption of Ordinance No. 2013-O-08 and since the majority of the property owners opposed the annexation it was placed on the November 2014 general election ballot. Therefore, this annexation was impacted by the recent election (last week) when no votes were cast in opposition to the proposed annexation.

A brief discussion ensued relating to the parcels included in the proposed annexation when Council Member Bushong asked for clarification. Council Member Reinersman stated the First Baptist Church and Regency Manor were deleted from the annexation proposal except for a 30 foot strip of frontage along KY17 for each parcel which was needed to be contiguous with the other parcels to be annexed.

A second reading of this final annexation ordinance will be presented at the December meeting.

**Proposed Ordinance – Regulating the Containment of Fowl and Other Similar Animals within the City Limits**

Mayor Yeager presented for a first reading a proposed ordinance that would modify Chapter 91 of the code of ordinances to address the harboring, maintaining and regulating the containment of fowl and other similar animals within the City limits. Mr. Osterhage gave the ordinance a first reading.

A lengthy discussion ensued with concerns from Council and residents regarding acreage restrictions, limiting the number of chickens per single family dwelling, deed restrictions, the placement of coops within the property lines, buffer requirements, concerns that coops draw predators, and requiring a permit first be obtained in order to keep these types of animals.

Mr. Moriconi stated he researched this subject with other cities and found that most cities do not have an outright ban on harboring chickens or require a certain amount of land, but do limit the number of chickens one is permitted to have. Council Member Reinersman suggested that if a subdivision has deed restrictions that prohibits chickens that it could be dealt with by the Homeowners' Association (if there is one) or with filing civil action. He stated the city's nuisance ordinance was not sufficient to handle issues with keeping chickens.

Council Member Little stated he felt Section II of the proposed ordinance was complicated and difficult to enforce ducks and geese from running at large. He stated this ordinance to impose regulations may help somewhat, but doesn't want to leave loop holes.

Mr. Osterhage advised that the ordinance cannot be constructed in such a way that no property owner could qualify. Council Member Reinersman stated he felt this proposed ordinance was a conservative approach to deal with the issue. He suggested the Council hold a public hearing on the issue to get more input from the residents. Council Member Franzen commented that she was in favor of some kind of regulations to deal with the complaints the City has been receiving about chickens running at large in subdivisions.

Council Member Reinersman suggested that Council consider this first reading as valid and then submit the permit application regulations to be attached to this ordinance at the second reading. He also suggested advertising a public hearing to obtain citizen comments. Mr. Osterhage suggested providing residents a discretionary period of time to obtain a permit for those who already own chickens.

A motion was made by Council Member Reinersman and seconded by Council Member Little to revise the ordinance to include permit application requirements. Roll was called and answered with five ayes and one abstain vote cast by Council Member Aseere. Motion carried 5-1.

**Resolution No. 2014-R-12 – Opposing the Kentucky State Auditor Recommendation of Revising the Governance Structure of the Kenton County Airport Board**

Mayor Yeager presented to Council for consideration Resolution No. 2014-R-12 which would assert opposition of the State Auditor’s recommendation of revising the governance structure of the Kenton County Airport Board. Mr. Osterhage read Resolution No. 2014-R-12.

A motion was made by Council Member Little and seconded by Council Member Franzen to adopt Resolution No. 2014-R-12.

A brief discussion ensued. Council Member Aseere stated he felt this Resolution was political mud throwing from the current Kenton County Judge Executive to the future Judge Executive. He stated Kenton County has created a task force to develop a new structure for the Airport Board. Council Member Reinersman suggested deleting the fourth and seventh paragraphs that makes reference to political desires. Mayor Yeager commented that the citizens of Kenton County paid for the airport land and she doesn’t want to see it controlled by Ohio.

Council Member Little moved to revise his motion to adopt Resolution No. 2014-R-12 as amended by striking paragraphs four and seven. A second was made by Council Member Franzen. Roll was called and answered unanimously. Motion carried 6-0.

**Adjournment**

There being no further business, a motion was made by Council Member Bushong and seconded by Council Member Little to adjourn. Motion carried with all ayes and the meeting ended at 8:58 p.m.

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Donna G. Yeager, Mayor

ATTEST:

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Patricia H. Taney, City Clerk