

Opening

The City Council of the City of Independence, Kentucky met on Monday, December 1, 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, City Attorney John Osterhage and City Clerk Patricia Taney.

Proclamation – Alec Hall, Eagle Scout

Mayor Yeager along with City Administrator Chris Moriconi presented a Proclamation to Alec Hall for attaining the rank of Eagle Scout. Mr. Moriconi read the Proclamation that honored Alec's leadership in the Boy Scout program and expressed gratitude for his extensive service project that rehabilitated a half mile section of the nature trail in the Independence Memorial Park. Mr. Moriconi stated that Alec did a great job of constructing two bridges and six trail steps and laying mulch and railroad ties in this section of the nature trail which was a great benefit to the community.

Approval of the November 10, 2014 Special Meeting Minutes

Mayor Yeager called for a motion to approve the minutes of the special meeting held on Monday, November 10, 2014. Council Member Franzen so moved, with second by Council Member Bushong. No amendments to the minutes were noted, roll was called and answered unanimously. Motion carried 6-0.

Ordinance No. 2014-O-12 – Disbanding the City Board of Adjustment – 2nd Reading

Mayor Yeager presented to Council for a second reading Ordinance No. 2014-O-12 that would modify the code of ordinances, specifically Chapter 35 addressing Board of Adjustment provisions, to delete said provisions in its entirety as Board of Adjustments is being provide by an Interlocal agreement with Planning and Development Services of Kenton County. City Attorney Jack Osterhage read Ordinance No. 2014-O-12.

There being no discussion, a motion was made by Council Member Brinker and seconded by Council Member Bushong to adopt Ordinance No. 2014-O-12. Roll was called and answered with four ayes and two no votes cast by Council Members Bill Aseere and Carol Franzen. Motion carried 4-2.

Ordinance No. 2014-O-13 – Disbanding the City Code Enforcement Board – 2nd Reading

Mayor Yeager presented to Council Ordinance No. 2014-O-13 that would modify the code of ordinances, specifically Chapter 39 in the Code Enforcement Board provisions, to delete said chapter it its entirety as Code Enforcement is being provided by an Interlocal agreement with Planning and Development Services of Kenton County. City Attorney Jack Osterhage read Ordinance No. 2014-O-13.

There being no discussion, a motion was made by Council Member Bushong and seconded by Council Member Brinker to adopt Ordinance No. 2014-O-13. Roll was called and answered with four ayes and two no votes cast by Council Members Bill Aseere and Carol Franzen. Motion carried 4-2.

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

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

A motion was made by Council Member Little and seconded by Council Member Reinersman to approve Resolution No. 2014-R-11. Roll was called and answered unanimously. Motion carried 6-0.

Ordinance No. 2014-O-15 – 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 – 2nd Reading

Mayor Yeager presented to Council for a second reading Ordinance No. 2014-O-15 that would annex 46.225 acres lying on the easterly side of relocated Kentucky Highway SR17, south of Maple Tree Lane and North of Taylor Mill Road at its intersection with the said relocated Highway SR17. Mr. Osterhage gave Ordinance No. 2014-O-15 a second reading.

A motion was made by Council Member Aseere and seconded by Council Member Bushong to adopt Ordinance No. 2014-O-15. Roll was called and answered unanimously. Motion carried 6-0.

Proposed Ordinance – Amending Nuisance Ordinance Relating to Fowl – 1st Reading

Mr. Moriconi advised Council that following last month's meeting and the first reading of a proposed ordinance that would establish regulations for the harboring of fowl, and due to much feedback from citizens, there has been some discussion that the best way to address the keeping of fowl would be to amend the nuisance ordinance. He stated a second reading of the proposed ordinance establishing regulations for fowl has been postponed so that Council can consider the ordinance before them that would amend the current nuisance ordinance.

Council Member Franzen addressed the audience by stating she wanted to clarify that she did not initiate the original ordinance proposed at last month's meeting. She stated that she is not for or against the harboring of chickens (fowl) but only wants to find a solution that will be in the best interest of everyone.

Mr. Moriconi stated that eight citizens have registered to speak to Council on this issue and reminded everyone that the proposed ordinance before the Council tonight deals with the nuisance side of harboring fowl and is not the original ordinance presented at last month's meeting that would establish regulations for the keeping of fowl.

Council Member Reinersman commented that Council is trying to find a way that residents can keep backyard chickens and stated he would like to recant some prior comments he made adding he would like to find the best solution that would work for everyone. Council Member Little stated he has done a lot of research on this issue and agrees the more appropriate way to address this issue is by amending the nuisance ordinance to include fowl that becomes a nuisance to a neighborhood. He stated he is in favor of upholding people's rights as long as those rights do not infringe on others rights. Council Members thanked everyone for attending tonight's meeting to discuss this issue and be part of finding a solution that will work for everyone.

City Attorney Osterhage read the proposed ordinance that would amend the city's general regulations in Chapter 93 of the Code of Ordinances to provide for the inclusion of fowl within the definition of same and to further deal with nuisances in order to address a popular trend of its citizenry of keeping and maintaining fowl on and within their property. Mr. Osterhage reiterated that this proposed ordinance deviates from the previous ordinance introduced at the last meeting and the proposed ordinance will now try to incorporate fowl to the list of nuisances. He went on to read the main highlights of the proposed ordinance that would consider fowl to be a nuisance and includes:

- a) Failure to keep fowl enclosure in a sanitary condition and free from odors
- b) Failure to keep fowl in a covered, secure enclosure built at least two feet above the surface of the ground or in a ground level enclosure that includes a roosting area which is at least two feet above the ground
- c) Failure to keep enclosures situated at least twenty-five feet from the nearest neighbors residence and no closer than four feet to the owner's residence
- d) Failure to keep enclosures predator proof
- e) Failure to keep enclosures designed and maintained to prevent any bird from leaving the owner's property
- f) Failure to provide an enclosure that is not of sufficient size to admit free movement of each bird, providing at least three square feet of space per bird

Council Member Reinersman stated Council may also want to consider two additional amendments, those being:

- g) The keeping of any rooster
- h) The keeping of more than ten fowl on a lot of less than two acre

Council Member Little suggested that c) should change the word "residence" to "property line".

At this time, privileges of the floor was given to those in attendance that wished to address the Council on this proposed ordinance.

Lou Dimmerman, 5139 Noble Court, Independence – stated he was very disappointed that Council has now deviated from the original ordinance presented at last month's meeting. He stated his neighbors have many chickens and it looks like a zoo and the previous ordinance had limited the number of chickens to four and now the ordinance being presented is watered down. He stated he feels that the prior ordinance established regulations to keep chickens and had more strength in it and that the new proposal is going to be hard to enforce.

Susan Gilligan, 5045 Madison Pike, Independence – stated she used to keep chickens and has noticed a food revolution going on where more well educated, law abiding citizens now want to have chickens as a clean food source for their family. She stated she feels that if the city prohibits the harboring of chickens that these type of citizens will not be attracted to live here. She stated that she likes the idea of requiring citizens to obtain a permit from the City to keep chickens.

Dianna Deaton, 11009 Madison Pike, Independence – stated she worked at a chicken farm for several years and applaud those trying to make a difference by growing their own food, canning, etc. but feels the owners of fowl should be responsible about keeping them on their own property and supports regulations by the City.

Ian Caudell, 174 Independence Station Road, Independence – expressed concern regarding the limiting of acreage and number of chickens per acre. He stated that if the chickens are being raised for meat then a lot of birds are needed. He also stated that hens are just as noisy as roosters so roosters should not be prohibited. He also stated the regulations and/or nuisance amendment should be focused on subdivisions lots only and not on lots that have one or more acres.

Sarah Covington, Independence Road – stated she does not live within the city limits but questioned this being a City problem as the City has many large parcels there should not be a ban or limit on the number of chickens kept on a parcel. She stated she felt this is a subdivision issue that should be a matter for the Homeowners' Associations.

Bob Finley, 1212 Cannonball Way, Independence – stated he was disappointed with this new proposed ordinance and feels the acreage condition makes sense to him. He also questioned who would enforce the nuisance ordinance and was advised that Kenton County Animal Control would enforce a nuisance violation.

Amy Powell, 2043 Moffett Road – stated she agreed that acreage should be a condition of keeping chickens. She stated that a predator proof pen for the chickens was also very important.

Darren Urlage, 4959 Madison Pike, Independence – expressed concern the City would be looking for violations. He was advised the City does not drive around looking for violations, but only responds to complaints from citizens.

A lengthy discussion ensued after hearing the citizens' concerns and Council made changes to the proposed amendment to the nuisance ordinance that mainly centered on the number of chickens (no more than six) that would be allowed per parcel, no roosters would be allowed, all fowl must be kept in an enclosure that is free from odors and debris and is predator proof. Also a permit to harbor chickens would be required by the City but no fee would be charged for the permit. A final version of the proposed ordinance was agreed upon and Mr. Osterhage read the changes.

Resolution No. 2014-R-13 – Authorizing a Text Amendment Application Relating to Outdoor Music in the NSC & NC Zones

Mayor Yeager presented to Council for consideration Resolution No. 2014-R-13 that would authorize filing an application with PDS for a text amendment to the City's zoning ordinance that would amend the language of the NSC (Neighborhood Shopping Center) zone to permit entertainment, music and sound amplifying systems within outdoor dining areas. Mr. Moriconi read Resolution No. 2014-R-13. He advised Council of the differences between a permitted use and a conditional use and a brief discussion ensued. Council was advised that a conditional use would require a hearing before the Board of Adjustment to get their approval or disapproval. If the text amendment is for a permitted use then the City would not be able to impose conditions. Council Member Reinersman questioned the need for this text amendment for one-time events such as church festivals, etc. Jay Huber, President of the Kentucky Motorcycle Association voiced his objection to the text amendment for a conditional use and would like see outdoor music permitted in the business zones. In closing the discussion on this Resolution, Council decided to change the proposed text amendment application for a conditional use rather than a permitted use as initially read.

Proposed Ordinance – Approving Various Text Amendments to update all Sections of the Zoning Ordinance as Needed to Conform with the Newly Adopted Kenton County Comprehensive Plan – 1s Reading

Mayor Yeager presented to Council a proposed ordinance that would provide for text amendments to the City’s Zoning Ordinance to update all sections that refer to physically restricted development areas, urban and non-urban services areas, Northern Kentucky Planning Commission and floodplain regulations as these areas have been modified by the newly adopted Kenton County Comprehensive Plan. Mr. Moriconi explained the text changes in more detail and are as follows:

1. In all sections – change the term “Physically Restricted Development Areas (PRDA)” to “Developmentally Sensitive Areas (DSA)”
2. In all sections – change the term “Urban and Non-urban Service Areas” to “Urban/Suburban Focus Areas” and “Rural Focus Areas” as this would provide consistent terminology between Direction 2030 and all the zoning ordinances in Kenton County so confusion in the administration of the codes would be avoided.
3. In all sections – change the term “Northern Kentucky Area Planning Commission (NKAPC)” to “Planning and Development Services of Kenton County (PDS)” to reflect the new name of this agency in all ordinances in Kenton County to avoid confusion in the administration of the codes.
4. Update the Floodplain Regulations in all zoning ordinances in Kenton County to clearly define who the Floodplain Administrator is in every jurisdiction.

Mr. Moriconi stated this proposed ordinance would be presented for a second reading at the next meeting.

Proposed Ordinance – Amending Ordinance No. 2005-O-01 – Setting the Time and Place of City Council Meetings during Week of Elections – 1st Reading

Mayor Yeager presented to Council a proposed ordinance that would establish the alternate meeting date for the November Council meeting as the Monday following a Tuesday general election duly authorized by the State.

Attorney’s Report – John J. Osterhage

Mr. Osterhage did not have anything to report.

City Administrator Report – Chris Moriconi

Presentation of June 30, 2014 Audit Report - Mr. Moriconi advised Council that Mayor Yeager has presented each of them a copy of the June 30, 2014 Audit report in their Council packet. He stated the report indicates the City’s finances are in good shape and cited the cliff notes on page seven that provides a snapshot of the revenues and expenses and indicated that pages thirteen and fourteen provided the fund balances. He stated the auditor had no areas of concern. He stated he would be happy to address any questions or concerns they have after they review the report.

Mayor’s Report – Donna G. Yeager

Executive Order No. 2014-EO-06 - Mayor Yeager presented Executive Order No. 2014-EO-06 appointing Mike Belew & Dave Huelsman to the Park Board.

Closing Comments and Acknowledgements

As this was Council Member Little’s last meeting after serving five terms (10 years) on Council Mayor Yeager presented him with a Key to the City and acknowledged his many years of service to the City. Mr. Moriconi commented that it has been a pleasure to work with him and always

appreciated the time and effort he put into researching various issues before the Council during the last ten years.

This meeting was also Mayor Yeager's last meeting in her mayoral position. Mayor-elect Chris Reinersman presented Mayor Yeager with a Key to the City as well as a bouquet of flowers. Mayor Yeager thanked everyone and stated she has enjoyed her twenty months as the interim mayor. She will return as an elected Council Member in January 2015.

Adjournment

There being no further business, a motion was made by Council Member Bushong and seconded by Council Member Franzen to adjourn. Motion carried with all ayes and the meeting ended at 9:07 p.m.

Christopher J. Reinersman, Mayor

ATTEST:

Patricia H. Taney, City Clerk