

**Opening**

The City Council of the City of Independence, Kentucky met on Monday, January 4, 2016 at 7:00 p.m. in the Council Chambers of the Independence Municipal Center, 5409 Madison Pike, Independence, Kentucky with Mayor Christopher Reinersman presiding. Mayor Reinersman called the meeting to order and opened with the Pledge of Allegiance and Council Member Jim Bushong led the invocation. Roll was called and the following Council Members registered present: Bill Aseere, Tom Brinker, Jim Bushong, Lucas Deaton, Carol Franzen and Donna Yeager. Also present was City Administrator Chris Moriconi, City Clerk Patricia Taney, Assistant City Clerk Gina Gabbard and City Attorney Jack Gatlin.

**Police Department Recognition and Promotions – Wittenberger, Hicks and Richman**

Chief Tony Lucas addressed Council and discussed the Explorer program. He stated the program started in 2007 and there have been several that have completed the program. CJ Whittenberger was presented an award by Mayor Reinersman and Chief Lucas which recognized CJ for being the longest serving member participating in the Explorer Program. Chief Lucas stated that CJ has volunteered hundreds of hours participating in community events such as 4<sup>th</sup> of July, the Christmas Walk, parades, etc. He also stated the Explorers now raise their own funds to purchase their uniforms through fundraising events such as working concessions the Bengals Stadium.

Mayor Reinersman and Chief Lucas presented Michael Richman appointment from Patrolman to Sergeant and Matt Hicks was promoted from Sergeant to Lieutenant.

**Approval of the December 7, 2015 Regular Meeting Minutes**

Mayor Reinersman called for a motion to approve the minutes of the regular meeting held on December 7, 2015. Council Member Franzen so moved, with a second by Council Member Brinker. No amendment to the minutes were noted, roll was called and answered with 4 ayes and Council Members Bushong and Yeager abstained. Motion carried.

**Ordinance No. 2016-O-01 – Zoning Text Amendment Adding a Definition for Automotive Parts and Accessories Stores and Adding this to the List of Permitted Uses within the NC Zone – 2<sup>nd</sup> Reading**

Mayor Reinersman presented Ordinance No. 2016-O-01 to Council for a second reading which would approve a zoning text amendment to include automotive parts and accessories stores to the list of permitted uses as well as the definition within the NC Zone. Mr. Gatlin gave Ordinance No. 2016-O-01 a second reading.

Mayor Reinersman called for a motion to approve Ordinance No. 2016-O-01. Council Member Franzen so moved with a second by Council Member Brinker. Roll was called and answered unanimously. Motion carried.

**Resolution No. 2016-R-01 – SD1 Laterals**

Mayor Reinersman presented Resolution No. 2016-R-01 to Council which would clarify Sanitation District No. 1's (SD1) responsibility in regards to lateral sewer lines on private property.

He stated recently, SD1's position is repairs to the lateral sewer lines are the responsibility of the property owner. Mayor Reinersman stated SD1, did at the direction of the three Judge Executives (Boone, Kenton and Campbell Counties), set aside \$600,000 for repairs, but it is the city's responsibility for the making repairs to the street after the sewer lines have been repaired. If cities do not sign the agreement, the residents/property owners would be responsible for repairs. He stated this resolution is seeking clarification from SD1 and if passed, would authorize the Mayor join in the lawsuit on the behalf of Independence residents and let the court decide who is responsible for the lateral repairs.

Mr. Gatlin explained that SD1's \$600,000 budget was a one-time deal. He added that \$440,000 was previously set aside for exclusively for the City of Covington before SD1 prior to sending the interlocal agreement to other cities. He stated the reality is, there was only \$160,000 left for the remaining Northern Kentucky cities. Mr. Gatlin stated the cities that chose not to sign SD1's interlocal agreement, SD1 would not service and fix the lateral right-a-ways in those areas. He stated every City Attorney said it's illegal and that cities can't indemnify SD1 for something such as this. Mr. Gatlin stated the second issue is cities are required to repair the streets after SD1 repairs the lateral right-a-ways; and the cost of the street repairs could be more than the lateral repair. He mentioned the third problem with this proposed agreement from SD1 is that it is one sided and SD1 could terminate the agreement upon a thirty day notice. He added it also states the \$600,000 budget is for this year only so it is unknown how this issue will be handled in future years. Mr. Gatlin stated Erlanger has been dealing with these issues for the past six months and several cities such as Ft Wright, Park Hills, Cold Spring and Erlanger have taken formal action to move forward with court action to get a declaratory judgement. He mentioned there are another five or six cities in Northern Kentucky that are also in discussions regarding this issue. He stated cities don't want to sign this interlocal agreement and feel that clarification is needed to identify the responsible parties for these lateral lines. Mr. Gatlin expressed the only way to do this is in the form of a declaratory judgement to seek guidance from the Kenton Circuit Court. He stated the cities will take the position that they believe this is SD1's responsibility and SD1 will take the position that it's the city's responsibility and the court will ultimately decide. He stated the purpose of this resolution is to reach a level of clarity in Kenton County on who is responsible for the repairs of lateral right-a-ways. Mr. Gatlin stated by passing this resolution, it is allowing the Mayor to authorize the law firm to represent the City in seeking a declaratory judgement from the courts.

Council Member Brinker mentioned he finds it interesting that SD1 determines their laterals different than electrical providers do their electric lines. Mayor Reinersman stated he agreed and expressed concern that if this passes, other utilities could do the same thing. Council Member Franzen stated SD1 is called Sanitation District for a reason, they maintain sanitation and doesn't understand how the lines got blurred. She added it's almost double dipping for them, they charge the taxpayer and then the taxes will have to go up because the city will have to make lateral repairs.

Council Member Deaton asked where the litigation stands as of now. Mr. Gatlin stated another mayor has suggested each city have their own cap – relative to their city's population. Council Member Franzen asked who would be responsible, as litigation could be a lengthy process. Mayor Reinersman answered, SD1's position is it's the taxpayers' responsibility; but he hasn't signed the interlocal agreement. He stated Erlanger signed the agreement because they had necessary repairs.

He stated Council can discuss this further but if the City has a problem, we may have to revisit and consider signing the agreement. Mayor Reinersman stated that Covington has 40-50 sinkholes in their streets, when sewer lines fail under a street, it eventually collapses and you have residents that can't afford \$5,000- \$15,000 for repair bills for those lateral lines.

Council Member Aseere asked what costs would be associated with the legal action. Mayor Reinersman stated there is a \$3,000 cap for each City joining the lawsuit. Council Member Aseere also asked if a taxpayer pays for a repair while litigation is going on, can they come back and be reimbursed from SD1. Mr. Gatlin stated they are not including the reimbursement idea in the lawsuit but if the court judgement is in the cities favor and SD1 is determined to be the responsible party, it could open up separate lawsuits for those cases. Mayor Reinersman stated he doesn't see joining this lawsuit as a hostile action towards SD1, it is just that the cities are looking for clarification on who is ultimately the responsible party for the repair of the lateral lines. He also added that it's not a giant problem currently for Independence but he doesn't want to exclude Independence as it could affect the City in the future so being a part of this process would be in the best interest of the residents. He stated that if Council agrees to adopt this resolution the City will be a party to this lawsuit.

There being no further discussion a motion was made by Council Member Aseere to adopt Resolution No. 2016-R-01 with a second by Council Member Franzen. Roll was called and answered unanimously. Motion carried 6-0.

#### **Attorney's Report – Jack Gatlin**

Jack Gatlin stated he will circulate a final draft of the declaratory judgement action to Council but he is trying to keep it low key as possible. He stated it should be a legislative fix to this issue.

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

Mr. Moriconi had nothing to report.

#### **Mayor's Report – Chris Reinersman**

**Executive Order No. 2016-EO-01** - Mayor Reinersman presented Executive Order No. 2016-EO-01 – Appointment to the Planning and Development Services Council. The executive order appoints Mayor Reinersman as the primary representative and Council Member Franzen as the alternate representative to the Planning and Development Services Council for 2016.

#### **Comprehensive Street Maintenance Report**

Mayor Reinersman advised Council they were provided a copy of the Comprehensive Street Maintenance Report. He stated that the report recommends budgeting \$1.2 million per year for street repairs. He stated last year's budget was \$750,000. He added that franchise fees will bring additional revenue as well as the new shopping center that is being developed at Madison and Harris Pike. Mayor Reinersman mentioned the City purchased a crack sealer machine several years ago and the Public Works Department handles that type of maintenance. The Mayor stated the City has 182 miles of street and according to the report, we should be doing 17.7 miles a year of crack sealing.

**Presentation of Annual Audit ending June 30, 2015**

Mayor Reinersman presented to Council the final Annual Audit for the year ending June 30, 2015. He thanked Finance Director Terri Hudson, City Clerk Patricia Taney and City Administrator Chris Moriconi for their hard work. He also stated there were no deficiencies noted on the audit. Mayor Reinersman requested Council direct any questions or concerns they have regarding the audit to him or Chris Moriconi.

**Miscellaneous Comments**

Council Member Franzen mentioned that she received an email requesting the City put in a turn lane at the intersection of Delaware Crossing and Shaw Road. She suggested painting turn lanes since cars are sitting in the center lane as there are no lines painted. Chris Moriconi stated that he would get with Dan Koch from Public Works to see if the pavement is wide enough to paint lines and/or turn lanes.

Council Member Aseere brought up the issue of standing water on Bristow Road due to recent rain. Mayor Reinersman stated it is a State maintained road and part of the first phase of road improvements to SR536. The Mayor advised he and Chris Moriconi would be attending the City Nights meeting in Frankfort in a few weeks and he would use the opportunity to seek funding for the State Route 536 project from State legislators.

**Adjournment**

There being no further business, a motion was made by Council Member Yeager and seconded by Council Member Franzen to adjourn. Motion carried with all ayes and the meeting ended at 7:54 p.m.

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Christopher J. Reinersman, Mayor

ATTEST:

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Patricia H. Taney, City Clerk