

SPECIAL COUNCIL MEETING

Minutes of February 9, 2009

City of Independence, Ky.

Opening

The City Council of the City of Independence, Kentucky held a Special Meeting on Monday, February 9, 2009 at 7:00 pm in the Independence Municipal Center, 5409 Madison Pike, Independence, Kentucky with Mayor Christian J. Moriconi presiding. Mayor Moriconi called the meeting to order. Roll was called and the following Council Members registered present: Mary Pat Behler, Jim Bushong, Margaret Cook, Carol Franzen, Mike Little and Donna Yeager. Also present was City Attorney, Jed K. Deters.

Purpose of the Special Meeting

Mayor Moriconi announced this special meeting of the City Council was called to discuss the following agenda items:

- Approval of January 5, 2009 Meeting Minutes
- Independence Village – KCPC W-649 Waiver Request
- Ordinance No. 2009-O-01 – Text Amendment Approving Model Sign Regulations – 2nd Reading
- Ordinance No. 2009-O-02 – Intent to Annex a Total of 53.267 Acres, More or Less, and being the Right of Way Area of Relocated KY-17 – 2nd Reading
- Proposed Ordinance – Approving Cincinnati Bell Cable Franchise – 1st Reading
- Accept Property Transfer of Land Known as Shadywood Park and Authorize Mayor to Sign Property Deed
- Municipal Order 2009-MO-02 – Appointing Mary Pat Dressman to Senior Board
- City Administrator's Report
 - Additional street lights to be installed on new section of SR17
- Mayor's Report
 - Presentation of 2007 Annual Audit
 - Update on Old Richardson Road Bridge
- Executive Session in accordance with KRS 61.810 (if necessary)

Approval of the January 5, 2009 Regular Council Meeting Minutes

Mayor Moriconi called for a motion to approve the minutes of the regular meeting held on January 5, 2009. Council Member Franzen so moved, with second by Council Member Yeager. No amendments were noted; roll was called and answered with five ayes and one abstain by Council Member Bushong; motion carried 5-1.

Independence Village – KCPC No. W-649 Waiver Request

Mayor Moriconi presented to Council correspondence from the Kenton County Planning Commission relating to an application by Ashley Commercial Group requesting waivers for two subdivision requirements. The first waiver request was for the requirement that curb cuts along Madison Pike be located at least 400 feet away from the intersection of Madison Pike and Centennial Blvd and the second waiver request was the requirement of the private street be provided to interconnect Centennial Drive opposite Everett Drive with the private street east of Lot #12 and require sidewalks along both sides of this private drive as shown on the approved amended Stage I development plan. Mayor Moriconi asked Mike Schwartz, Chief Planner with the Planning Commission to comment on these waiver requests. Mr. Schwartz advised that the Planning Commission has approved the first request regarding the curb cut and permitted the proposed access point along Madison Pike as a right-in/right-out access point only. He stated this would prohibit left turn ingress/egress. He stated the second waiver request to eliminate the private street and sidewalks has been denied. Mr. Schwartz stated that the correspondence was sent to the City for informational purposes and that no action by the Council was necessary

as these were subdivision regulation waiver request which are handled by the Planning Commission staff.

DEFEATED Ordinance No. 2009-O-01 – Text Amendment Approving Model Sign Regulations – 2nd Reading

Mayor Moriconi presented for a second reading Ordinance No. 2009-O-01 which would approve a text amendment that would eliminate the current sign regulations in the City's zoning ordinance and adopt new model sign regulations. Mr. Deters gave Ordinance No. 2009-O-01 a second reading.

Council Member Franzen moved to adopt Ordinance No. 2009-O-01, seconded by Council Member Behler.

Mayor Moriconi opened the floor for comments and discussion. Council Member Little distributed a handout he compiled that contained a sampling of photos of current signs throughout the City that would not be legal to erect under the new regulations in the model ordinance. He stated that his concerns were that the new sign regulations would be difficult to enforce as they seem too complicated and intrusive. He stated many of the signs were on church and school properties NKAPC Planner, Mike Schwartz stated that public schools are exempt from zoning regulations. Another concern expressed by Council was the limit of 4 political signs per property. Mr. Schwartz stated the City could place a higher limit of political signs. Council Member Franzen express concerns that the new regulations would limit free speech. Mr. Schwartz advised that adopting the new regulations would provide a better legal foundation. He stated that the Planning Commission hired a consultant who worked on this document for approximately a year and that many of the new regulations were drafted based on current federal court cases. There was discussion about making several text changes, but Mr. Schwartz cautioned that changing one element of the document could affect the whole. Mr. Little stated he understood that and would rather vote it down than to make a lot of changes. Council Member Behler expressed concern about keeping the current regulations if they were not up to the current legal standards.

Roll call vote was taken and answered with two ayes and four no votes cast by Council Members Bushong, Cook, Little and Yeager. Motion failed.

Council Member Franzen moved to adopt the proposed model sign regulations in Ordinance No. 2009-O-01 without limits on political yard signs for single family and multi-family residential properties, seconded by Council Member Behler. Roll was called and answered with two ayes and four no votes cast by Council Members Cook, Little, Yeager and Bushong. Motion failed and Ordinance No. 2009-O-01 was defeated on the second reading.

Ordinance No. 2009-O-02 – Intent to Annex a Total of 53.267 Acres, More or Less, and Being the Right of Way Area of Relocated SR17 – 2nd Reading

Mayor Moriconi presented to Council for a second reading Ordinance No. 2009-O-02. This ordinance is an intent to annex a total of 53.267 acres, more or less, and being the right of way area of relocated SR17 from Fowler Creek Road and south thereof, and owned by the State of Kentucky Transportation Cabinet. Mr. Deters read Ordinance No. 2009-O-02.

Motion was made by Council Member Bushong and seconded by Council Member Franzen to adopt Ordinance No. 2009-O-02. Roll was called and answered unanimously. Motion carried 6-0.

Proposed Ordinance – Approving Cincinnati Bell Cable Franchise – 1st Reading

Mayor Moriconi presented to a Council a proposed ordinance that would grant a competitive, non-exclusive franchise to Cincinnati Bell Extended Territories LLC (CBET) that would provide

for the construction, erection, installation and operation of a cable television system for a term of twelve years. He commented that this would bring competition to the community for this type of services. Mr. Deters read the proposed ordinance.

Accept Property Transfer of Land Known as Shadywood Park and Authorize Mayor to Sign Property Deed

Mayor Moriconi presented to Council copies of two deeds that have been presented to the City by Grand Communities for the transfer of two parcels in the Shadybrook Trails Subdivision which has been developed as recreational areas with the intent of City ownership. Mr. Deters commented that the legal fair market value of these properties has not been noted on the deeds and suggested that the deeds be revised to include that information. Recreation Director, Nita Brake advised Council that the City still owes approximately \$5,500 on a final installment under an agreement the City had with the developer to install improvements on the property. She stated the developer submitted a bill to the City for a water fountain that was installed, but that the City has rejected the bill as the fountain was included on the original site plan. Mr. Groth commented that he spoke to the developer about the drinking fountain last week to explain the City's position.

There being no further discussion, a motion was made by Council Member Bushong and seconded by Council Member Behler to authorize Mayor Moriconi to sign the deeds for the transfer of the Shadybrook Trails Subdivision park property. Roll was called and answered with five ayes and one no vote cast by Council Member Cook. Motion carried 5-1.

Municipal Order No. 2009-MO-02 - Appointing Mary Pat Dressman to Senior Board

Mayor Moriconi stated he would like to appoint Mary Pat Dressman to the Senior Board of Directors and presented to Council a municipal order to approve this appointment.

Council Member Franzen made a motion to approve Municipal Order No. 2009-MO-02 approving the mayoral appointment of Mary Pat Dressman to the Senior Board, seconded by Council Member Bushong. Roll was called and answered with all ayes. Motion carried 6-0.

City Administrator Report – Dan Groth

Mr. Groth reported that he met with representatives of the State highway regarding the City's concern with lack of adequate street lighting on the new section of SR17. He stated that since poles are already in the area, Duke Energy has agreed to install the light fixtures and then the City would just have to pay the monthly electric charges.

Council Member Yeager moved to approve the installation of the lights on the poles and pay the electricity bills, seconded by Council Member Little. No roll call; motion carried with all ayes.

Mayor's Report – Christian J. Moriconi

Presentation of 2007 Audit - Mayor Moriconi presented to Council the 2007 Audit report for fiscal year ending June 2008. He asked the Council to review the document and direct any questions about it to Finance Director, Teresa Hudson or to City Administrator, Dan Groth.

Update on Old Richardson/Crowe Road Bridge

Mayor Moriconi reported that action needs to be taken regarding the Old Richardson Road Bridge. He advised that research has provided some cheaper alternatives and consideration is being given to replacing the current bridge with a one lane suspension bridge. He stated the bridge would cost approximately \$100,000 and the installation of the bridge would run between \$50,000 - \$150,000. He stated that the City could realize some savings if the Public Services employees dismantled the old bridge. Mr. Groth commented that a realistic estimate for the bridge replacement would be between \$175,000 - \$250,000. Mayor Moriconi stated this option

is more cost effective than the original estimate of \$600,000 and bids may come in much lower than our estimate due to the economic recession.

Mr. Groth commented that during the interim, and since the State has advised the City that it is their recommendation that the bridge be closed, on April 1, 2009 the bridge will be closed until a replacement can be installed. He stated that he will be working with Kenton County officials to make application for a bridge enhancement grant. He stated that while Kenton County is not responsible for this bridge they have to apply for the grant on behalf of the City.

A brief discussion ensued. Mr. Deters advised that by law if the residents that are serviced by the bridge will not give their consent to close the bridge, then the City will have to file suit against them. It was decided to send another letter to the residents in the area of the bridge to inform them of the April 1 Bridge closing and the City's plans to replace the bridge if grant money can be allocated from the State.

Adjournment

There being no further business, Council Member Franzen moved to adjourn the meeting, seconded by Council Member Bushong. Motion carried with all ayes and the meeting ended at 8:27 p.m.

Christian J. Moriconi, Mayor

Attest:

Patricia H. Taney, City Clerk