

COUNCIL MEETING MINUTES SEPTEMBER 17, 2012

The regular scheduled meeting of the City Council, City of Audubon Park, was held on Monday, September 17, 2012, at 3340 Robin Road with the following present: Mayor Michael Scalise along with Council Members Cindy Habeeb, Rose Mangino, Gary Vogel, Al Huber, Judy Schwenker, and Patrick Kehoe. Also present were Deputy Chief Ronald Jones and City Clerk Stephanie Lee along with City Attorney Patrick McElhone. Chief Jeff Cox and Assistant City Attorney Jonathan Leachman were absent from the meeting.

Call to Order: Mayor Scalise called the meeting to order at 7:30 P.M. followed by the Pledge of Allegiance.

Approval of the Minutes: Mayor Scalise asked if there were any corrections, additions, or deletions to the minutes from the previous month. Al Huber made motion to accept the minutes as presented. Judy Schwenker seconded, and the motion passed unanimously.

Bill Skees – Bellarmine Bond: Bill Skees went into a brief explanation of the bond request he has. He mentioned the bond is for up to \$7,910,000; and he said the proceeds are going to be used to refund a taxable bond that refinanced a tax exempt bond used for various campus items such as residence halls, etc. Again, he reiterated that there is no debt or liability to the City for this bond; and he later mentioned Bellarmine will pay an administrative bond fee of \$2,000 at issue plus two years thereafter to the City. A Public Hearing was held during the meeting with there being no objections.

Mayor Scalise went into a brief explanation of bonds, and he mentioned an IRS publication he has if anyone is interested in looking at it to learn more about bonds.

Bill Skees read RESOLUTION/MUNICIPAL ORDER NO. 002, SERIES 2012, A RESOLUTION/MUNICIPAL ORDER OF THE CITY COUNCIL OF THE CITY OF AUDUBON PARK, KENTUCKY, AUTHORIZING THE ISSUANCE OF ITS COLLEGE REVENUE REFUNDING BONDS, SERIES 2012 (BELLARMINE UNIVERSITY INCORPORATED PROJECT) IN THE AMOUNT OF UP TO \$7,910,000; FOR THE PURPOSES OF REFINANCING A PORTION OF A TAXABLE NOTE PAYABLE TO FIFTH THIRD BANK DATED OCTOBER 1, 2009, IN THE ORIGINAL PRINCIPAL AMOUNT OF \$14,060,000, THE PROCEEDS OF WHICH WERE USED TO REFINANCE AN EXISTING BOND WHICH REFINANCED A PREVIOUS BOND, THE PROCEEDS OF WHICH WERE USED FOR THE RENOVATION OF A LIBRARY INTO A CAMPUS STUDENT CENTER, CONSTRUCTION OF A NEW SCIENCE WING, COMPLETION OF THE W.L. LYONS BROWN LIBRARY, CONSTRUCTION OF AN ADDITIONAL RESIDENCE HALL TO HOUSE APPROXIMATELY 200 STUDENTS AND THE REPLACEMENT OF VARIOUS HEATING AND COOLING FACILITIES IN THE SCIENCE

BUILDING, ALL LOCATED ON THE BELLARMINE CAMPUS LOCATED AT 2001 NEWBURG ROAD, LOUISVILLE, KENTUCKY, AND THE PURCHASE OF AN OFFICE BUILDING LOCATED AT 2120 NEWBURG ROAD, LOUISVILLE, KENTUCKY FOR BELLARMINE UNIVERSITY INCORPORATED, A KENTUCKY NON-PROFIT CORPORATION (“BELLARMINE”) QUALIFIED UNDER INTERNAL REVENUE CODE SECTION 501 (C) (3); PROVIDING FOR A PLEDGE AND ASSIGNMENT OF REVENUES AND THE PAYMENT OF SAID BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF A BOND PURCHASE AND LOAN AGREEMENT AND DESIGNATING THE BONDS TO BE “BANK QUALIFIED” UNDER SECTION 265 OF THE INTERNAL REVENUE CODE AND TAKING OTHER RELATED ACTIONS.

Mayor Scalise called for the vote with the Resolution passing unanimously.

Public Comments: The following is a list of people who spoke and a general summary of what they had to say:

1. Vince Osbourn, 3114 Chickadee – inquired about the benefits versus risks regarding bonds. He later asked as to if there are any tax benefits to the City.

Mayor Scalise said there are not any risks as stated by Mr. Skees. He said any action would be taken against Bellarmine, and he said the City has no liability as far as paying the bond off. He said the benefits are public recognition and the fee the City receives, and he later commented that the tax benefit is to the lending institution.

2. Gene Stotz, 3330 Robin Road – announced Brightside is having their “Community-Wide Cleanup” on Saturday, October 27th. He said the Garden Club is coordinating it this year, and he said they are going to clean up Preston Highway from a little bit north of the Preston entrance to as far south as they have volunteers to do. He commented about a check-in point on Audubon Parkway near the entrance; and he said they have a limited number of gloves, t-shirts, and bags.
3. Cary Campbell, 1201 Valley Drive – explained a request he has submitted to have a concert in the park at Crossbill and Audubon Parkway. He said he thinks people would like to have regular events such as a once a week event in the summer. He said he thinks they should start now to set up a “blueprint” for planning over the winter for the spring and summer. He said he has secured or lined up an insurance event permit and security in the event that the City won’t provide any. He said he is hoping the City will take advantage of the opportunity, and he said he would like to have the Chief of Police there to meet people. He said a band is already lined up once all band members are onboard. He said there is really not any risk to the City, and he mentioned local sponsors indicating they are willing to provide financial backing. He said it is a great way to bring the community together.

Mayor Scalise said the City would not be against this, and he said Mr. Campbell would not need a parade permit due to it being a concert versus a parade.

Mr. Campbell said he was calling it that because that was the closest thing he saw to what he was trying to do.

At this time, Mayor Scalise introduced Deputy Chief Ron Jones; and he said he will need to discuss this with the Deputy Chief and Chief to see how they can work this. He added that he doesn't think he needs a parade permit, but he said a permit will need to be issued.

Gary Vogel inquired as to which park he wanted to hold the event in.

Mr. Campbell said he would like to have it in the park at Crossbill and Audubon (Triangle Park).

Mayor Scalise said he will talk to Mr. Campbell about it.

Patrick Kehoe said he is willing to help Mr. Campbell in planning this since he has something similar coming up with the "movie night" project he has been working on. He said the problem he is having is the sponsors with the cost involved.

4. Jim Head, 1112 Audubon Parkway – mentioned the July 4th Parade, and he inquired as to if there are any more events planned for the near future such as for Halloween.

At the request of Mayor Scalise, Deputy Chief Jones briefly explained that Chief Cox has planned an event they are working on in possibly using the Command Post, having McGruff, and having someone to greet people with candy in Triangle Park that night.

Mr. Head questioned as to if they would have costume awards and scary movies.

Deputy Chief Jones said they have not gone that far with it, and he said he will give Mr. Head his number so they can talk about it.

5. Nancy Heine, 3219 Oriole Drive – talked about being a "good neighbor", and she said she wants to remind people to try to take care of barking dogs and to try to avoid lawn mowing or making noise early mornings on the weekends. She said she thinks people should be aware of their neighbors. She later added that she has a dog, and she said there is a difference between barking and incessant barking.

Mayor Scalise said he thought there was an Ordinance regarding noise, but he said he wasn't for sure about the timeframe involved.

Deputy Chief Jones said it can be disturbing any time of day. He said usually when a dog barks at night, it is good to lookout and to see what's going on and to call Police with concerns.

Mayor Scalise said a neighbor on Sora called City Hall to report a coyote she had seen, and he said the dogs may be barking about that too.

Patrick Kehoe said he thought Mrs. Heine was referencing him, and he asked if she was.

Nancy Heine said she was a little bit.

Patrick Kehoe said he wanted to clear the story, and he said he got up at 7:15 A.M. Saturday morning. He said he is busy and has 2 small children, and he said he used an electric leaf blower for about 30 minutes.

A short discussion ensued involving who could hear the noise, how people grew up, neighborly things, when the garbage men can come, rules for doing work at your home, services, reasonable noise, common courtesy, etc.

Financial Report: The information submitted on the Financial Report showed the figures through the month of August. Mayor Scalise commented about the Financial Report being for informational purposes only with the upcoming Audit; therefore, a vote was not taken at this time.

Police Report: In the absence of Chief Cox (attending training in Bowling Green), Deputy Chief Jones read the Police Report for the month of August. A copy of the said report is made a part of these minutes. He presented a new report that Chief Cox had came up with, and he passed out copies for the Council to review.

Al Huber said Poplar Level Road has had people speeding at 60-65 mph in the mornings, and he asked if the Police Department can get involved.

Deputy Chief Jones said he will contact Louisville Metro regarding the problem. He said they have a reason to be on Poplar Level, but he said they don't normally sit on there. He went on to add they are working on the Audubon Police Bulletin, and he said MDS is going to sponsor the printing (coming out tentatively the first week of October).

Joanne Bader said they can distribute it along with the Newsletter the last part of September if it is ready. She said they do this at no cost to the City.

Patrick Kehoe commented about asking Chief Cox about KRS 189, 110 with regards to window tinting stickers being installed; and he asked as to if the window tinting on the Police cars is legal. He said there is an entire statute on that along with percentages, etc.

Deputy Chief Jones said he is familiar with that law, and he said there is an Officer safety issue involved. He said it is there so that a person cannot see the Officer, NCIC

information on Mobile Data Terminals, or weapons that may be in the vehicles. He mentioned Metro Louisville also having the tint, and he said they will have to seek legal advice regarding the issue.

A short discussion took place regarding the Kentucky State Police not allowing tinting, “country” versus “city” policing, examples of Police shootings just outside of Audubon, exemptions to the laws, “PR” issues and eye contact with Officers, concerns and the issue being raised before, and the need for legal advice, etc.

City Attorney Patrick McElhone said Councilman Kehoe would need to take it up with the Chief, and Mayor Scalise agreed saying they are going to address the issue.

Forest Board Business: Gilbert Zinner passed out the Forest Board Report dated September 15, 2012 to the Mayor and Council for their review. He mentioned there is a work day scheduled for the second Saturday of each month in the parks, and he said they will be planting trees in Robin Park on October 13th from 9:30 A.M. until Noon.

Rose Mangino inquired about 3126 Meadowlark in regards to a time limit on the mound of chips from a stump remaining at the location of a tree that was removed.

Mayor Scalise said he doesn't think there is a time limit on something like that. He said there is a requirement on grinding up the stump, and he commented about it being the homeowner's decision to smooth it out or to do what they need to do with it. He said it may fall under a nuisance issue, and he said he will ask the Code Enforcement Officer to take a look at it.

Keith Braun inquired about chips being different than time limits associated with logs from a tree, and Mayor Scalise said there are time limits that are placed on logs.

Rose Mangino said it usually different with the chips with them being nice and well-rounded. She said with this one, it is not; and she said people on the street are inquiring.

Mayor Scalise commented about chips being what mulch is.

Unfinished Business: Mayor Scalise updated the Council on his meeting in Frankfort with State Representative Jim Wayne and Rick Long (Department of Transportation Executive Director of Rural Roads and Secondary Streets) to discuss possible street paving funds or grants. He said they said they don't have any funds available right now, but he said they will try again with the Legislature next session.

Patrick Kehoe inquired about the plan of attack now, and he later questioned about a long term plan (later saying he thinks it has been poorly planned).

Mayor Scalise said he's been doing a street comparison around this end of town, and he said he thinks they can continue patching some of the spots. He said if we have a bad

winter it may change our situation, but he also said the winter may be mild as well. He mentioned patching work that was done at Eagle Pass at the Hess Lane end.

A short discussion took place regarding financing, grants, gas tax money, the Road Fund balance, the number of years the City has been receiving the gas tax money, how much money the City receives per month, the Works Department employee's salary, and response to questions, etc.

New Business: Rose Mangino said she's spoken before about the Code Enforcement position at \$10,000 at two days per week of work. She said when her neighbor asked for a permit to cut down his white Ash Tree, the Code Enforcement person came to his house. She said after he looked at the tree, he was told that only the Mayor had the permission to let them cut down the tree. She said therefore, she would like to make an Ordinance for a first reading for the Council to look at eliminating the \$10,000 for the Code Enforcement at the next meeting. She said she would also like to eliminate the \$10,000 from the Budget as well. She said she is going to present this for a vote in October to eliminate the position.

Patrick Kehoe said he would also like to add that he had a resident call him to complain about vehicles (a taxi cab and two cars) being parked in the back yard at 928 Dove Lawn. He inquired about the Code Enforcement Officer catching that.

Deputy Chief Jones said it is illegal to park in the grass, and he commented about probable cause to look in the back yard. He said he cannot say if the Code Enforcement Officer did or did not see it, but he said they can take this as a complaint and have it looked at.

Patrick Kehoe said he took a picture of it in his vehicle from the street, and Mayor Scalise said he will have it checked out.

Patrick Kehoe said he noticed the other day that the Code Enforcement Officer was wearing handcuffs, and he inquired about the authority he has.

Mayor Scalise said he does not have authority to make arrests, and he said he has not seen him wearing handcuffs (mentioning he wears a pouch with scissors).

Patrick Kehoe and Rose Mangino both said they have seen him with handcuffs.

Rose Mangino asked if she could bring that up at the next meeting because she had the first reading tonight. She reiterated about getting rid of the position and the \$10,000. She said she has come to City Hall twice to talk to the Mayor, and she was told twice by Officers about their doing Code Enforcement.

Deputy Chief Jones said he tried to explain to Councilperson Mangino about the Police having the authority to enforce Ordinances and codes and regulations.

Rose Mangino commented about the taxes being raised, and she doesn't think they need a Code Enforcement Officer at the cost of \$10,000.

Patrick Kehoe questioned about the Retirement Plan for the City, and he inquired as to who is eligible. He later added that there is a lot of money going out to an unfunded plan.

Mayor Scalise said there are two people currently receiving it, and he said there is one eligible. He said they are Dale Vittitoe, Carl Reesor, and City Clerk Stephanie Lee.

Patrick Kehoe inquired as to how many people would be eligible over the next three years, and Mayor Scalise said he doesn't have that figure in front of him.

Patrick Kehoe questioned about Work's Department workers being eligible; and Mayor Scalise said not at this point, but if they stay here a number of years and are vested.

A discussion took place regarding the amounts currently being paid out, KRS Retirement Plan (State plan), hazardous or non-hazardous employees, percentages involved, benefits and comparisons between plans, employee eligibility, jurisdictions involved, various plans offered, funding of the plan, bankruptcy, informing the Council, etc.

Patrick Kehoe inquired as to whether there was any resolution with MSD regarding problems in the area (Mr. Conlin's issue and holes in parks). He later said his biggest concern is the holes in the parks and someone getting hurt. He said he has called everyone he knows at MSD, and he said he has had problems. He suggested Mayor Scalise try calling Greg Heitzman with MSD, and he gave him the number to call.

Mayor Scalise said they have had several productive meetings with MSD. He continued to say Mr. Conlin can stay after the meeting to talk about what was discussed. He added that it is proving to be difficult in trying to get MSD to fix the holes. He said MSD has secured the holes, and he said they will be incurring the liability with securing the holes. He said they are doing a "disconnect" project in the Valley and Falcon area. He said he will call Mr. Heitzman tomorrow.

Patrick Kehoe said he would like to meet with Mayor Scalise after the meeting.

Mayor's Report: There was not a Mayor's Report due to the issues being covered earlier in the meeting.

Al Huber made motion to adjourn the meeting. Gary Vogel seconded, and the meeting was adjourned.

ATTESTED

APPROVED