

**Maysville City Commission
8 November 2007
REGULAR MEETING**

The Board of Commissioners of the city of Maysville, Kentucky met in a regular meeting on 8 November 2007 at 5:15 p.m. at the Maysville Municipal Building. Present: Commissioner Kelly Ashley, Commissioner Judy Pfeffer, Commissioner John Mains, Commissioner Rick Litton and Mayor David Cartmell presiding. Also present: City Manager Ray Young, City Clerk Lisa Dunbar, City Attorney Sue Brammer, Fire Chief Eric Bach, Police Chief Kent Butcher, Comptroller Romie Griffey, Director of Public Works Jim Fryman, City Engineer Sam Baker, Utility Manager Eddie Wenz, Tourism/Renaissance Director Duff Giffen, Zoning Administrator Matt Wallingford, Codes Officer Gary Wells, Asst. Comptroller/HR Director Karen Cracraft, and Asst. City Attorney Steve Zweigart.
Also present: The Ledger Independent and WFTM.

MINUTES & REPORTS

Motion by Commissioner Litton, second by Commissioner Pfeffer, to approve minutes of Oct. 18, 2007 special meeting and officers' reports as presented. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

DETENTION CENTER LITERACY PROGRAM

Commission was addressed by Bernice Jackson, leader, and members of Junior Girl Scout Troop 157, regarding book collection for Mason County Detention Center library. The troop is asking that each city employee donate two paper back books for the library. City Manager Ray Young said the city would be glad to participate in the program.

RESOLUTION AUTHORIZING INTENT TO APPLY FOR RIVERWALK EXTENSION

The following resolution was presented to the Board of Commissioners:

**1CITY OF MAYSVILLE
COMMONWEALTH OF KENTUCKY
Resolution No. 07-61**

**A RESOLUTION AUTHORIZING INTENT TO APPLY FOR
RIVER WALK EXTENSION**

BE IT RESOLVED by the City of Maysville, Kentucky that the Mayor is hereby authorized and directed to execute and deliver to the office of Transportation Enhancement Program an Intent to Apply under the Transportation Equity Act for the

21st Century (TEA-21) with required assurances concerning City responsibilities, for a project to improve the City of Maysville by extending the River Walk.

Motion by Commissioner Pfeffer, second by Commissioner Litton, to adopt the resolution as read. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

WASHINGTON SEWERS UPDATE

City Engineer Sam Baker reported that staff had consulted with Cann-Tech to evaluate the sewer system in Washington and report what changes need to be made. Work may be started in the spring.

RESOLUTION AUTHORIZING AGREEMENT WITH CANN-TECH TO EVALUATE WASHINGTON SEWER SYSTEM

The following resolution was presented to the Board of Commissioners:

**1CITY OF MAYSVILLE
COMMONWEALTH OF KENTUCKY
Resolution No. 07-62**

A RESOLUTION AUTHORIZING AGREEMENT WITH THE CANN-TECH, LLC FOR
WASHINGTON SEWER SYSTEM

WHEREAS, the City needs a preliminary sanitary sewer system evaluation of the sewer in the Washington area;

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Mayor is hereby authorized and directed to execute the Professional Consultant Firm Agreement between the City of Maysville and Cann-Tech, LLC for a preliminary sanitary sewer system evaluation at a cost not to exceed \$15,000.

Motion by Commissioner Litton, second by Commissioner Pfeffer, to adopt the resolution as read. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

RESOLUTION AUTHORIZING AGREEMENT WITH THE TRANSPORTATION CABINE ON SAFETY TOWN

The following resolution was presented to the Board of Commissioners:

**1CITY OF MAYSVILLE
COMMONWEALTH OF KENTUCKY**

Resolution No. 07-63

A RESOLUTION AUTHORIZING AGREEMENT WITH THE KENTUCKY
TRANSPORTATION CABINET FOR SAFETY TOWN PROJECT

WHEREAS, the City of Maysville, Kentucky has been granted \$48,000 in federal funds for the Safety Town Project;

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Mayor is hereby authorized and directed to execute the Agreement between the Kentucky Transportation Cabinet and City of Maysville for the Safety Town Project.

Motion by Commissioner Pfeffer, second by Commissioner Ashley, to adopt the resolution as read. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

ORDINANCE AMENDING SECTION 195.06 TO ADD LAND USE MANAEMENT
SUPPLEMENTARY REGULATIONS TO CODE ENFORCEMENT BOARD
JURISDICTION

The following ordinance was presented to the Board of Commissioners on first reading:

**1COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Ordinance No. 07C-18**

AN ORDINANCE AMENDING CODE OF ORDINANCE SECTION 195.06 TO ADD
SECTION 320.408 TO THE JURISDICTION OF CODES ENFORCEMENT BOARD

Summary

This Ordinance amends Code of Ordinances Section 195.06 to add Land Use Management Supplementary Regulations, 320.408, to the Jurisdiction of the Code Enforcement Board.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF MAYSVILLE, KENTUCKY, as follows:

- (1) Code of Ordinances Section 195.06 is hereby amended to read in its entirety as follows:

§ 195.06 JURISDICTION

The Code Enforcement Board shall have jurisdiction to enforce and shall enforce Code of Ordinances Chapters 152, 192, 194, 199, and 279, and **320.408**.

(2) This Ordinance shall be published in full.

Motion by Commissioner Mains, second by Commissioner Pfeffer, to pass the ordinance as presented on first reading. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

ORDINANCE AMENDING SECTION 11.01 TO ADD CIVIL FINE FOR VIOLATION OF LAND USE MANAGEMENT SUPPLEMENTARY REGULATIONS

The following ordinance was presented to the Board of Commissioners on first reading:

**COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Ordinance No. 07C-19**

AN ORDINANCE AMENDING CODE OF ORDINANCES SECTION 11.01 TO ADD CIVIL FINES FOR VIOLATION OF LAND USE MANAGEMENT SUPPLEMENTARY REGULATIONS

Summary

This Ordinance amends Code of Ordinances Section 11.01 to add a section for Civil Fines for Land Use Management Supplementary Regulations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF MAYSVILLE, KENTUCKY, as follows:

(1) Code of Ordinances Section 11.01 is hereby amended to read in its entirety as follows:

§ 11.01 CLASSIFICATION OF VIOLATIONS.

(A) Unless otherwise provided hereinafter, all code violations are declared to be misdemeanors and are classified into the following criminal penalty categories and shall be subject to the following fines and/or imprisonment:

Imprisonment

Class	Fine per Violation	per Violation
I	\$100.00 to \$500.00	Up to 60 days
II	\$50.00 to \$250.00	Up to 30 days
III	\$10.00 to \$100.00	None
IV	\$15.00 within 24 hours, \$25.00 after	None
V	\$1.00 within 24 hours, \$2.00 after	None
VI	\$3.00 within 24 hours, \$5.00 after	None
VII	\$1,000.00	None
VIII	\$500.00 to 4,000.00	Up to 1 year
IX	\$100.00 to \$4,000.00	None
X	\$500.00	Up to 1 year

(B) Violations of Ordinances that are enforced by the Code Enforcement Board shall be subject to the following schedule of civil fines:

	Violation	1 st Offense	2 nd Offense	All Others
1.	Dangerous Animals	\$ 25.00	\$ 50.00	\$100.00

2.	(Chapter 191) International Property Maintenance Code	\$100.00	\$125.00	
3.	(Chapter 279) Collection of Refuse	\$ 10.00	\$ 25.00	\$ 50.00
4.	(Chapter 152) Weeds	\$ 10.00	\$ 25.00	\$ 50.00
5.	(Chapter 194) Junk Vehicles	\$100.00	\$250.00	\$500.00 plus
	(Chapter 192)			per day while violation
	continues			
6.	<u>Land Use Management</u> <u>Supplementary Regulations</u> <u>(320.408)</u>	<u>\$25.00</u>	<u>\$50.00</u>	<u>\$100.00</u>

(Am. Ord. 86C-3, passed 3-25-86; Am. Ord. 89C-10, passed 6-8-89; Am. Ord. 89C-41, passed 12-12-89; Am. Ord. 91C-8, passed 5-7-91; Am. Ord. 94C-49, passed 12-28-94)

Statutory reference:

Ordained penalty may not be less than statutory penalty for same offense, see Ky. Const. 168
City authority to enforce ordinances by fines, penalties, forfeitures, injunctions, abatement orders, see KRS 83A.065
Fines for misdemeanors, see KRS 534.040(2)(a)
Imprisonment of misdemeanors, see KRS 532.090(1)
Codes Enforcement Board proceedings, KRS 65.8825

Case reference:

City ordinance may not redefine elements of an offense to impose criminal penalties greater than allowed by statute, *Pierce v. Commonwealth*, 777 S.W.2d 926 (Ky. App. 1989)

Opinion reference:

KRS 82.020 is a pre-emption statute that forbids city from redefining crime and punishment under Kentucky Penal Code, OAG 90-95

(2) This Ordinance shall be published in full.

Motion by Commissioner Mains, second by Commissioner Pfeiffer, to pass the ordinance as presented on first reading. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeiffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

ORDINANCE ADDING PENALTY TO LAND USE MANAGEMENT SUPPLEMENTARY REGULATIONS

The following ordinance was presented to the Board of Commissioners on first reading:

**1 COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Ordinance No. 07C-20**

AN ORDINANCE ESTABLISHING CIVIL PENALTY FOR VIOLATION OF LAND USE MANAGEMENT SUPPLEMENTARY REGULATIONS

Summary

This Ordinance enacts Code of Ordinances Section 320.408.99 to make violations of Code of Ordinances Section 320.408 enforced by the Code Enforcement Board and subject to civil fines of \$25 to \$100.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF MAYSVILLE, KENTUCKY, as follows:

1. Code of Ordinances Section 320.408.99 is hereby adopted to read in its entirety as follows:

§ 320.408.99 PENALTY.

Violation of any provision of 320.408 shall be

- (a) Enforced by the Code Enforcement Board and shall be punishable by a civil fine under § 11.01(b)(6).
- (b) This Ordinance shall be published in full.

Motion by Commissioner Pfeiffer, second by Commissioner Ashley, to pass the ordinance as presented on first reading. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeiffer, Commissioner Mains, Commissioner

Litton and Mayor Cartmell.

ORDINANCE CHANGING GRADE & PROMOTION REQUIREMENTS IN FIRE DEPARTMENT

The following ordinance was presented to the Board of Commissioners on first reading:

**COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Ordinance No. 07C-17**

AN ORDINANCE AMENDING CODE OF ORDINANCES SECTIONS 90.10 AND 90.13 TO CHANGE GRADE AND PROMOTION REQUIREMENT IN THE FIRE DEPARTMENT.

Summary

This Ordinance amends Code of Ordinances Sections 90.10 to delete the title of Major and use the title Assistant Chief, to change the number of Captains to three and to delete the position of Dispatcher. This Ordinance amends Code of Ordinances Section 90.13 to change the service requirement for Captain to five years and to not require a stated amount of service for Lieutenant.

Motion by Commissioner Pfeffer, second by Commissioner Ashley, to adopt the ordinance as presented on second read. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

RESOLUTION DECLARING AUGUSTUS EVERETT WILLSON & WILLIAM H. COX DAY

The following resolution was presented to the Board of Commissioners:

**1CITY OF MAYSVILLE
COMMONWEALTH OF KENTUCKY
Resolution No. 07-64**

A RESOLUTION DECLARING AUGUSTUS EVERETT WILLSON AND WILLIAM H. COX DAY

WHEREAS, Augustus Everett Willson was born in Maysville, Kentucky on October 13, 1846 where his father had started a lumber business with lumber from the raft on which he had traveled down the Ohio River; and

WHEREAS, Augustus Willson was a Harvard graduate, Chief Clerk of the U.S. Treasury Department; and practiced law with John M. Harlan prior to Harlan's appointment as a Supreme Court Justice; and

WHEREAS, Augustus Willson opened his campaign for governor of the Commonwealth of Kentucky in Maysville on August 19, 1907; and

WHEREAS, Augustus Willson was inaugurated as Governor on December 10, 1907; and

WHEREAS, Augustus Willson acted during his term to stop civil unrest caused by night riders in the tobacco growing areas of western Kentucky; and

WHEREAS, Augustus Willson is the only Maysville citizen ever to hold office as Governor; and

WHEREAS, William H. Cox was born in Maysville, Kentucky on October 22, 1856; and

WHEREAS, William H. Cox served on the Maysville City Council for seven years; and

WHEREAS, William H. Cox was Mayor of the City of Maysville in 1898; and

WHEREAS, William H. Cox served as a State Senator in the Kentucky Senate for eight years; and

WHEREAS, William H. Cox built the Cox Building and the Cox row of houses in Maysville; and

WHEREAS, William H. Cox was inaugurated Lieutenant Governor of the Commonwealth of Kentucky on December 10, 1907; and

WHEREAS, William H. Cox served as acting Governor of the Commonwealth of Kentucky for approximately half of his term as Lieutenant Governor because Governor Willson was out of state as a member of the Board of Governors of Harvard University; and

WHEREAS, William H. Cox was the only Maysville citizen to serve as Lieutenant Governor; and

WHEREAS, the City of Maysville wishes to recognize the achievements of Augustus Everett Willson and William H. Cox, both Maysville natives, who served as Governor and Lieutenant Governor of the Commonwealth of Kentucky from December 10, 1907 to December 12, 1911;

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that December 10, 2007, the one hundred anniversary of the inauguration of Augustus Everett Willson and William H. Cox, is declared Augustus Everett Willson and William H. Cox Day in the City of Maysville in honor of the contributions Augustus Everett Willson and William H. Cox made to the City of Maysville and the Commonwealth of Kentucky,

Motion by Commissioner Pfeffer, second by Commissioner Mains, to adopt the resolution as presented. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

ADJOURNMENT

Motion by Commissioner Pfeffer, second by Commissioner Ashley, to adjourn. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

Mayor

City Clerk