

Maysville City Commission
13 December 2007
SPECIAL MEETING

The Board of Commissioners of the City of Maysville, Kentucky met in a special meeting on 13 December 2007 at 12 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, Asst. Police Chief Ron Rice, Comptroller Romie Griffey, 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 Mains, to approve minutes of Nov. 8, 2007 regular meeting and Nov. 19, 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.

APPOINTMENTS & REAPPOINTMENTS

The following appointments and reappointments were presented to the Board of Commissioners by the Mayor:

Board of Architectural Review: Ken Pickerell, Gay Kleier, Don Buckley, 12/31/10
Board of Ethics: Rev. Kevin Burney, 12-8-10
Cemetery Board of Trustees: Bob Hendrickson & Kirk Clarke, 12/31/10
Renaissance Board: Tom Clarke, Ben Breslin, Joseph Byrd Brannen, 12/31/11
Utility Commission: Scott Smalley, 9/1/2010

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

FIRE DEPARTMENT PROMOTION

The following memo was presented to the Board of Commissioners:

To: Mayor, City Commission and City Manager
From: Fire Chief Eric Bach
Date: December 3, 2007
Re: Mark Mains

I would like to recommend that Mark Mains be removed from probationary status and be promoted to regular Fire Officer status. Mark has completed all the required training and testing during his probationary period. Mark is and will continue to be a great asset to our department.

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

POLICE DEPARTMENT RESIGNATION

The following memo was presented to the Board of Commissioners:

To: Chief Ken Butcher
Re: Schooling
DA: August 16, 2007

Dear Chief,

This is to inform you that I will not be attending the class, as scheduled to attend in September 07.

My current certification expires December 31, 2007. At this time, I will no longer be with the Maysville Police Department. I wish to thank you and all of your predecessors for the kindness and help throughout the years. There comes a time when old dogs need to stop chasing cars. This old dog is giving up the chase.

Sincerely yours,
James M. Sammons

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

APPOINTMENT OF POLICE CHAPLAINS

Asst. Police Chief Ron Rice presented the following names as appointees as Police Department Chaplains: Fr. Michael Henderson and Rev. Kevin Gibbs.

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

RESIGNATION OF ASSISTANT CITY ATTORNEY

The following letter was presented to the Board of Commissioners:

November 20, 2007

To my friends, the leaders of the City of Maysville:

RE: Tender of Resignation as Assistant City Attorney

I write you today in order to inform you that I am opening a solo law practice in Flemingsburg, Kentucky during the month of December 2007. As a result, it is necessary that I tender my resignation as Assistant City Attorney.

During my tenure in this capacity, I have observed great growth, development, and maturity within the leadership of the community which has been an exciting, edifying, and inspirational experience working with each and every one of you, and with your predecessors in office.

Thank you for the opportunity to learn and to serve. Thank you for your hard work and commitment to providing a community in which it truly a pleasure to live. You all have my best wishes, hopes, and prayers for continuing successful management of the City of Maysville.

Sincerely,
Steven R. Zweigart

Motion by Commissioner Mains, second by Commissioner Pfeffer, to accept the resignation of Asst. City Attorney Steve Zweigart. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

LETTER FROM LIMESTONE CABLE

The following letter was read into record:

Mr. Ray Young
City of Maysville
216 Bridge St
Maysville, KY 41056

Dear City Manager Young:

This letter is to inform you and the Council that effective February 1, 2008 we must raise some of our cable vision fees and to announce some changes to our channel lineup.

property of James R. Rawlings and Janice H. Rawlings and it is in the public interest to dispose of the surplus property rather than continue to maintain it; and

WHEREAS, the real estate to be conveyed has been appraised for \$400 and the cost of the survey is \$125;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Mayor and City Clerk are hereby authorized and directed to execute a deed for 0.069 acre parcel to James R. Rawlings and Janice H. Rawlings in consideration of \$525 and the Mayor is further authorized and directed to execute the closing statement and any other necessary documents.

Motion by Commissioner Mains, second by Commissioner Litton, 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.

RESOLUTION AUTHORIZING ADOPT-A-HIGHWAY PROGRAM

The following resolution was presented to the Board of Commissioners:

**1CITY OF MAYSVILLE
COMMONWEALTH OF KENTUCKY
Resolution No. 07-67**

A RESOLUTION AUTHORIZING ADOPT-A-HIGHWAY PROGRAM

WHEREAS, the City of Maysville, Kentucky recognizes the need for litter free highways; and

WHEREAS, the City of Maysville, Kentucky wants to continue to participate in the Adopt-A-Highway program;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Mayor is hereby authorized and directed to execute the Adopt-A-Highway agreement with The Kentucky Transportation Cabinet, Department of Highways to accept the responsibility for picking up the litter on Kentucky 8, MP 10.33-12.33, and to execute the encroachment permit to allow the City access to the site.

Motion by Commissioner Litton, second by Commissioner Pfeffer, 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.

RESOLUTION AUTHORIZING AGREEMENT FOR LEASE OF AIRCRAFT

The following resolution was presented to the Board of Commissioners:

**1CITY OF MAYSVILLE
COMMONWEALTH OF KENTUCKY
Resolution No. 07-68**

A RESOLUTION AUTHORIZING AGREEMENT FOR LEASE OF AIRCRAFT

WHEREAS, the Sheriff's Offices of Mason, Fleming, Rowan and Menifee Counties, Kentucky, the Rural Law Enforcement Technology Center, The Sheriff's Association of Texas and the United States Department of Justice, National Institute of Justice have entered into an Agreement concerning use of a Light Sport Aircraft; and

WHEREAS, the parties have agreed that the police departments of Maysville, Flemingsburg, and Morehead may request assistance with a mission; and

WHEREAS, the parties have prepared an Agreement to participate in a memorandum of understanding;

NOW THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Police Chief is hereby authorized and directed to execute the Agreement to participate and the memorandum of understanding for the use of a Sky Arrow 600 Sport which Agreement allows the City of Maysville Police Department to use the aircraft for missions and require that the City of Maysville share in costs of operation with the other agencies.

Motion by the Commissioner Ashley, seconded by Commissioner Litton, 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.

RESOLUTION AUTHORIZING EXTENSION OF AGREEMENT WITH BTADD

The following resolution was presented to the Board of Commissioners:

**1CITY OF MAYSVILLE
COMMONWEALTH OF KENTUCKY
Resolution No. 07-69**

A RESOLUTION AUTHORIZING EXTENSION OF AGREEMENT WITH BUFFALO
TRACE AREA DEVELOPMENT DISTRICT

WHEREAS, the City of Maysville, Kentucky and Buffalo Trace Area Development District (hereinafter BTADD) entered into an Agreement on 9 March 2007 for the purpose of BTADD completing the mapping of Sewer Utility Data for the City of Maysville; and

WHEREAS, the City and BTADD need to extend the original contract completion date and do additional work such as digitizing of the sewer lines, comparing the GPS files to Design Plans, and obtaining more data from City employees;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Mayor is hereby authorized and directed to execute the contract extension between City of Maysville and Buffalo Trace Area Development District to extend the completion date to December 31, 2008, to add the additional work, and to allow for a contract increase of expenses not to exceed \$8,000 for a total contract amount not to exceed \$47,776.

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

RESOLUTION AUTHORIZING AWARD OF SECOND STREET SEWER CONTRACT

The following resolution was presented to the Board of Commissioners:

**COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Resolution No. 07-70**

**A RESOLUTION AWARDED CONTRACT FOR
SECOND STREET STORM SEWER**

WHEREAS, the City of Maysville advertised for bids in accordance with plans and specifications as follows:

- | | | |
|-----|--------------|---------------------------|
| (a) | Subject: | Second Street Storm Sewer |
| (b) | Advertised: | November 20, 2007 |
| (c) | Bid Opening: | December 6, 2007 |

WHEREAS, the following bids were received:

- | | | |
|-----|-----------------------------|-----------|
| (1) | Wind Ridge Construction LLC | \$206,822 |
|-----|-----------------------------|-----------|

(2)	Kenney Inc.	\$207,875
(3)	Independent Excavating, Inc.	\$223,049
(4)	ConnHurst, LLC	\$239,196

WHEREAS, the City Manager and the City Engineer have recommended acceptance of the first bid above as the best bid,

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

- (1) The bid of Wind Ridge Construction, LLC in the sum of \$206,822 for the subject contract described above is hereby accepted on behalf of the City of Maysville.
- (2) The Mayor is hereby authorized and directed forthwith to execute all contractual documents necessary or appropriate to effectuate acceptance of said bid and to consummate the contract on behalf of the City of Maysville.

Motion by Commissioner Litton, second by Commissioner Pfeffer, 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.

ORDINANCE AMENDING CODE OF ORDINANCES 176.01 TO REVISE WARRANTY REQUIREMENTS FOR STREET & UTILITY CONSTRUCTION

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

**COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Ordinance No. 07C-21**

AN ORDINANCE AMENDING CODE OF ORDINANCES SECTION 176.01 TO REVISE WARRANTY REQUIREMENTS FOR STREET AND UTILITY CONSTRUCTION.

Summary

This Ordinance amends Code of Ordinances Section 176.01 to change the requirement for the bonds securing warranty agreements to 35% of development costs or 35% of the cost estimate as determined by the City Engineer.

Motion by Commissioner Pfeffer, second by Commissioner Mains, 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 195.06 TO ADD LAND USE MANAGEMENT
SUPPLEMENTARY REGULATIONS TO CODE ENFORCEMENT BOARD
JURISDICTION

The following ordinance was presented to the Board of Commissioners on second 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 Litton, second by Commissioner Pfeffer, to adopt the ordinance as presented on second 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 second 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:

Class	Fine per Violation	Imprisonment 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 Ashley, second by Commissioner Mains, to adopt the ordinance as presented on second reading. Upon call of the roll, voting is as follows: Voting aye: Commissioner Ashley, Commissioner Pfeffer, 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 second reading:

**1COMMONWEALTH 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 Litton, second by Commissioner Ashley, to adopt the ordinance as presented on second reading. Upon call of the roll, voting is as follows:

Voting aye: Commissioner Ashley, Commissioner Pfeffer, Commissioner Mains, Commissioner Litton and Mayor Cartmell.

SET TIME & DATE FOR SPECIAL MEETING

The Board of Commissioners agreed to hold a special meeting at noon on Friday, Dec. 21. 2007.

ADJOURNMENT

Motion by Commissioner Mains, second by Commissioner Pfeffer, 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