

Maysville City Commission
Thursday, March 12, 2009; 5:15 p.m.
REGULAR MEETING

The Board of Commissioners of the City of Maysville, Kentucky met in a regular meeting on March 12, 2009 at 5:15 p.m. at the Maysville Municipal Building. Present: Commissioner John Mains, Commissioner Judy Pfeffer, Commissioner Rick Litton, Commissioner Kelly Ashley and Mayor David Cartmell presiding. Also present: City Manager Ray Young, City Clerk Lisa Dunbar, City Attorney Sue Brammer, Comptroller Romie Griffey, Police Chief Kent Butcher, Fire Chief Eric Bach, Asst. Comptroller/HR Director Karen Cracraft, City Engineer Sam Baker, Utility Manager Eddie Wenz, Tourism/Renaissance Director Duff Giffen, Road Superintendent Rick Truesdell, Zoning Administrator Matt Wallingford, Building Official Gary Wells, Code Officer Nicole Jones, and Asst. City Attorney Kelly Caudill.
Also present: The Ledger Independent and WFTM.

MINUTES & DEPARTMENT REPORTS

The minutes of the Feb. 5 and 24, 2009, special meetings and department reports were presented to the Board of Commissioners.

Motion by Commissioner Pfeffer, second by Commissioner Ashley to accept the Feb. 5 and 24, 2009, minutes and department reports with corrections as noted. Upon call of the roll, voting is as follows: Voting aye: Commissioner Mains, Commissioner Pfeffer, Commissioner Litton, Commissioner Ashley, and Mayor Cartmell. The motion passes.

APPOINTMENTS & REAPPOINTMENTS

The Mayor presented the following reappointments to the Board of Commissioners:

Charles Brodt, Board of Examiners, term to expire 3/11/13
Ernie Hillenmeyer, Human Rights Commission, term to expire 3/9/12

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

RETIREMENT FROM PUBLIC WORKS

Date, March 10, 2009

Dear Honorable Mayor, City Commissioners and City Manager

On March 31, 2009, I will be resigning my position as Public Works Director with the City of Maysville. On April 1, 2009 I will be entering into retirement. At this time I would

like to thank the Mayor, City Commissioners and City Manager for letting me work for them and the City for all these years. I have enjoyed working for you and the City. It has been a great experience for me and my family.

Thanks again,
James T. Fryman

Motion by Commissioner Mains, second by Commissioner Litton to accept the resignation of the Public Works Director. Upon call of the roll, voting is as follows: Voting aye: Commissioner Mains, Commissioner Pfeffer, Commissioner Litton, Commissioner Ashley, and Mayor Cartmell. The motion passes.

PROMOTION IN PUBLIC WORKS DEPARTMENT

The following memo was presented to the Board of Commissioners:

Date: March 12, 2009
To: Ramon Young, City Manager
Fr: Rick Truesdell, Street Superintendent
Re: Full Time Position Opening

Due to the full time position in the Department it is my recommendation that Richard Swope be promoted to full time status. Richard will be filling the position vacant by the resignation of Howard Clayborn. I recommend the effective date of March 12, 2009.

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

RE-HIRE IN PUBLIC WORKS DEPARTMENT

The following memo was presented to the Board of Commissioners:

To: Mayor and City Commission
Fr: Ramon M. Young, City Manager
Re: Public Works
Da: March 12, 2009

Due to two (2) recent retirements, we have openings at Public Works.

I am recommending we fill one opening with the appointment of Debbie Mattingly as a full time employee. Debbie has worked for Public Works in the past and is familiar with the operation of the department.

Any consideration given to the request is greatly appreciated.

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

DISCUSSION OF PROPOSED SITE DEVELOPMENT ORDINANCE

City Engineer Baker explained to the council that changes are being proposed to the Site Development Ordinance, which will include oil/water separators for gas stations. The ordinance will be presented at the April meeting.

DISCUSSION OF READING MENTORSHIP PROGRAM AT MCMS

Mayor Cartmell told the commission that Mason County Middle School is seeking more volunteers for its reading mentorship program, and after discussions with city administration it is proposed that city employees be given time to participate under the supervision of department heads.

Motion by Commissioner Pfeffer, second by Commissioner Ashley to approve city staff participation in the Mason County Middle School reading mentorship program during work hours under the supervision of department heads. Upon call of the roll, voting is as follows: Voting aye: Commissioner Mains, Commissioner Pfeffer, Commissioner Litton, Commissioner Ashley, and Mayor Cartmell. The motion passes.

RESOLUTION AUTHORIZING CITY ENGINEER TO OBTAIN RFQS ON COX BUILDING PROJECT

The following resolution was presented to the Board of Commissioners:

**1COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Resolution No. 09-31**

A RESOLUTION TO REQUEST RFQ FOR COX BUILDING

WHEREAS, the City of Maysville is receiving grant money to renovate the Cox Building;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the City Engineer is hereby authorized and directed to make requests for qualifications for engineers for design work on the Cox Building.

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

RESOLUTION AUTHORIZING LOAN AGREEMENT WITH USA FOR AIRCRAFT

The following resolution was presented to the Board of Commissioners:

**1COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Resolution No. 09-26**

A RESOLUTION AUTHORIZING LOAN AGREEMENT WITH UNITED STATES OF AMERICA FOR AIRCRAFT

WHEREAS, there is currently a GS-4D aircraft on static display at the Fleming - Mason Airport, which aircraft is on loan from the United States of America; and

WHEREAS, United States of America requires a contract to be signed annually requiring the City of Maysville, Kentucky, to use the property for static display purposes only;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Mayor is hereby authorized and directed to execute and deliver the 2009 loan agreement for the period from April 1, 2009 to March 31, 2010, to the United States of America.

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

RESOLUTION TO LEASE PAXTON HOUSE

The following resolution was presented to the Board of Commissioners:

**1COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Resolution No. 09-27**

A RESOLUTION TO LEASE PAXTON HOUSE

WHEREAS, Paxton House is available for use as a visitor's center in Old Washington; and

WHEREAS, the owner is willing to lease the Paxton House to the City for no rent but with the City paying the utilities;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Mayor is directed and authorized to execute a lease with Elizabeth Wallingford Old Washington Preservation, Inc. for the lease of Paxton House.

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 Mains, Commissioner Pfeffer, Commissioner Litton, Commissioner Ashley, and Mayor Cartmell. The motion passes.

RESOLUTION TO LEASE LOT IN WASHINGTON

The following resolution was presented to the Board of Commissioners:

**1COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Resolution No. 09-28**

A RESOLUTION TO LEASE LOT IN WASHINGTON

WHEREAS, Beth Garey and Nancy Kirk own a lot in Washington, Kentucky which has been used by the City for parking; and

WHEREAS, the City wants to grow crops on part of the lot and use the rest of the lot for parking for tourism purposes;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the Mayor is directed and authorized to execute a lease with Beth Garey and Nancy Kirk for the lease of lot in Washington, Kentucky.

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

RESOLUTION ENDORSING CONTINUATION OF BUFFALO TRACE/GATEWAY
NARCOTICS TASK FORCE

The following resolution was presented to the Board of Commissioners:

**1COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Resolution No. 09-29**

A RESOLUTION ENDORSING CONTINUATION OF THE BUFFALO TRACE /
GATEWAY NARCOTICS TASK FORCE

WHEREAS, the City of Maysville, Kentucky (the “City”) is concerned about illegal narcotics sales and usage; and

WHEREAS, the Buffalo Trace / Gateway Narcotics Task Force was formed under an Interlocal Cooperative Agreement by cities and counties located in the Buffalo Trace and Gateway Area Development Districts to combat the sales and illegal usage of drugs; and

WHEREAS, the City endorses the continuation of the Buffalo Trace / Gateway Narcotics Task Force;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the City will provide up to \$15,000 toward the match of any federal or state funds to assist in the continuation of an enforcement unit, with said funds to be allocated from the FY2009 budget.

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

RESOLUTION AUTHORIZING REVISED DRUG & ALCOHOL POLICY FOR TRANSIT SYSTEM

The following resolution was presented to the Board of Commissioners:

**1COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Resolution No. 09-30**

**A RESOLUTION AUTHORIZING REVISED DRUG
AND ALCOHOL POLICY FOR MAYSVILLE TRANSIT SYSTEM**

WHEREAS, the Federal Transit Administration requires a Drug and Alcohol Policy in accordance with provisions, requirements and regulations of the Federal Transit Administration Drug and Alcohol rules; and

WHEREAS, the City has revised its policy to comply with required policy modifications of the Federal Transit Administration;

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF MAYSVILLE, KENTUCKY, that the revised Drug and Alcohol Policy for Maysville Transit System attached hereto is hereby adopted by the City of Maysville.

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 Mains, Commissioner Pfeffer, Commissioner Litton, Commissioner Ashley, and Mayor Cartmell. The motion passes.

ORDINANCE AMENDING CODE OF ORDINANCES CHAPTER 194.99 TO AMEND FINES FOR VIOLATION OF WEED ORDINANCE

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

**COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Ordinance No. 09C-01**

AN ORDINANCE AMENDING CODES OF ORDINANCES CHAPTER 194.99 TO AMEND THE FINES FOR VIOLATIONS OF THE WEED ORDINANCE

Summary

This Ordinance amends Code of Ordinances §194.99 to make a violation of any provision of §194.01 a Class II violation punishable under §11.01. If a person is issued a citation by the Codes Enforcement Board, violations shall be punishable by civil fine under 11.01(b)(4) of \$50 for first offense, \$75 for second offense, and \$100 for all others.

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

1. Code of Ordinances §194.99 is hereby amended to read in its entirety as follows:

§ 194.99 PENALTY.

Violation of any provision of § 194.01 shall be a Class II violation punishable under § 11.01. If a person is issued a citation under § 195.08, violation shall be punishable by a civil fine under § 11.01(B)(4).
(1991 Code, § 194.99) (Am. Ord. 04C-43, passed 12-9-2004)

Motion by Commissioner Litton, 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 Mains, Commissioner Pfeffer, Commissioner Litton, Commissioner Ashley, and Mayor Cartmell. The motion passes.

ORDINANCE AMENDING CODE OF ORDINANCES SECTION 11.01 TO REVISE CIVIL FINES FOR WEED VIOLATIONS

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

**COMMONWEALTH OF KENTUCKY
CITY OF MAYSVILLE
Ordinance No. 09C-02**

AN ORDINANCE AMENDING CODE OF ORDINANCES SECTION 11.01 TO REVISE CIVIL FINES FOR WEED VIOLATIONS

Summary

This Ordinance amends Code of Ordinances §11.01 to amend the Civil Fines for Weed Violations to \$50 for a first offense, \$75 for a second offense, and \$100 for all others.

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
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1.	Dangerous Animals (Chapter 191)	\$ 25.00	\$ 50.00	\$100.00
2.	International Property Maintenance Code (Chapter 279)	\$100.00	\$125.00	
3.	Collection of Refuse (Chapter 152)	\$ 10.00	\$ 25.00	\$ 50.00
4.	Weeds (Chapter 194)	\$ 40.00 50.00	\$ 25.00 75.00	\$ 50.00 100.00
5.	Junk Vehicles (Chapter 192)	\$100.00	\$250.00	\$500.00 plus \$100.00 per day while violation continues
6.	Land Use Management Supplementary Regulation (320.408) and Sign Regulations (320.411)	\$25.00	\$50.00	\$100.00

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

COX BUILDING PROJECT

The Mayor commended everyone who worked on the Cox Building project for making it progress and acquiring needed funding to complete it.

ADJOURN

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

David Cartmell, Mayor

City Clerk