

**CITY OF BARDSTOWN, KENTUCKY
WORKING SESSION CITY COUNCIL MEETING MINUTES
5-1-2018
5:00 PM**

The City Council met in regular session in the Council Chambers with Mayor Heaton and the following Councilmen:

Councilman Joe Buckman
Councilman Kecia Copeland
Councilman David Dones
Councilman John Kelley
Councilman Bill Sheckles
Councilman Roland E. Williams - absent

Others present: City Attorney Tim Butler, City Clerk Mary Riley, CFO Tracy Hudson, Assistant Police Chief Joe Seeyle, Fire Chief Billy Mattingly, Nelson County Gazette Reporter Elijah Brooks, The Kentucky Standard Reporter Dennis George, Bethlehem High School Principal Tom Hamilton and Attorney Mike Harrington with Stites and Harbison Law Firm.

MINUTES

THE MINUTES FROM THE 4-24-2018 REGULAR COUNCIL MEETING AND THE 4-30-2018 SPECIAL COUNCIL MEETING WERE APPROVED BY UNANIMOUS CONSENT.

INDUSTRIAL REVENUE BONDS PRESENTATION AND DISCUSSION – STITES AND HARBISON

Mayor Heaton introduced Attorney Mike Harrington with the law firm Stites and Harbison who explained that Bethlehem was asking the City to facilitate the issuance of bonds or a note and providing financing once a lender is located. The interest rate would be below the standard commercial rate and there would be no liability for the City, as outlined in *Resolution R2018-07 Industrial Revenue Bond*. Bethlehem High School Principal Hamilton provided additional information about the sports complex project, reporting on the amount of money raised in the last twenty (20) month. He indicated Phase I would include installing an entrance, excavating rock, building a stadium and softball field. Principal Hamilton intends to break ground in mid-summer and reminded the Mayor and Council that many of these facilities will be open to the public and that this Industrial Revenue Bond was fully insured by the Archdiocese of Louisville.

RESOLUTION R2018-07 INDUSTRIAL REVENUE BOND

City Attorney Butler read the following resolution:

RESOLUTION 2018-07

RESOLUTION OF THE CITY OF BARDSTOWN, KENTUCKY AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF BARDSTOWN AND THE ROMAN CATHOLIC BISHOP OF LOUISVILLE, A CORPORATION SOLE DBA BETHLEHEM HIGH SCHOOL, A NON-PROFIT ORGANIZATION, RELATING TO THE ACQUISITION, CONSTRUCTION, EQUIPPING AND INSTALLATION OF IMPROVEMENTS OF BETHLEHEM HIGH SCHOOL LOCATED AT 309 W. STEPHEN FOSTER AVENUE, BARDSTOWN, KENTUCKY (THE “PROJECT”); AGREEING TO UNDERTAKE THE ISSUANCE OF THE CITY OF BARDSTOWN, KENTUCKY INDUSTRIAL REVENUE NOTE IN AN AMOUNT NOT TO EXCEED \$3,500,000 AT THE APPROPRIATE TIME TO PAY FOR COSTS OF THE PROJECT; AND TAKING OTHER PRELIMINARY ACTION.

WHEREAS, Roman Catholic Bishop of Louisville, a Corporation Sole dba Bethlehem High School (the “School”), a Section 501(c)(3) non-profit organization under the Internal Revenue Code of 1986, as amended, in connection with the Industrial Building for Cities and Counties Act, as amended, Sections 103.202 to 103.285 of the Kentucky Revised Statutes (the “Act”) desires to obtain construction and permanent financing for the improvements to the athletic facilities, and any costs related to the financing (the “Project”); and

WHEREAS, in connection with the Project, it has been determined that the City of Bardstown, Kentucky (the “Issuer”) may assist the School by causing the acquisition, construction, equipping and installation of the Project and by entering into, at the appropriate time, a loan agreement with reference thereto pursuant to the authority of the Act, all in furtherance of the purposes of the Act and the public

and educational benefit of the residents and inhabitants of the Issuer; such loan agreement to be upon such terms and conditions as the Act may require and the Issuer may deem advisable; and

WHEREAS, the undertaking of the Project by the School will provide educational benefits and opportunities to the residents of the Issuer, encourage the expansion of commerce in accordance with the public policy of the Commonwealth of Kentucky by promoting the economic and educational development of the Commonwealth of Kentucky and the Issuer, will relieve conditions of unemployment and will improve the economic and educational welfare of the inhabitants of the Issuer; and

WHEREAS, the Issuer is further authorized by the Act to issue bonds, which term under the Act encompasses bonds, variable rate bonds, commercial paper bonds, bond anticipation notes, notes or any other obligations for the payment of money issued by a city, county or other authority pursuant to the Act, for the purpose of defraying the cost of acquiring, constructing, equipping and installing an industrial building or buildings, which term as defined in the Act specifically encompasses facilities for the use of nonprofit educational institutions in any manner related to or in furtherance of the educational purposes of such institutions; and

WHEREAS, discussions have occurred between the School and the Issuer incident to the issuance of the note or notes by the Issuer, and the School and the Issuer have agreed with the School to issue such note or notes upon compliance by the School with certain conditions, requirements and obligations, and subject to the approval of the Issuer of the terms of all agreements, ordinances and other documents required incident to said note issue; and the Issuer has authorized the School to proceed with the undertaking of the Project, subject to reimbursement of the initial costs of the Project from the proceeds of the note or notes, when and as issued; and

WHEREAS, based upon an estimate of the costs of the Project, the Issuer together with the School proposes to issue its note or notes as determined by the School and agreed to by the Issuer in an amount not to exceed THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) (the "Note"), such Note to be delivered by the Issuer and the School to pay for the Project, together with costs incident to the authorization and issuance of such Note, but with such contributions from the School as may be necessary; and

WHEREAS, the Issuer proposes to enter into at the appropriate time a loan agreement with the School and the lender to be determined, with respect to the Project, whereby the School will covenant and agree to pay amounts sufficient to provide for the payment of principal of and premium, if any, and interest on the Note, together with all fees in connection with the Note as the same become due and payable; and

WHEREAS, it is deemed necessary and advisable that a Memorandum of Agreement between the Issuer and the School be executed setting forth the preliminary agreements of the parties with respect to the Project, the issuance of the Note to defray the costs thereof and the payments to be made by the School with respect to the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BARDSTOWN, KENTUCKY (THE "CITY COUNCIL") AS FOLLOWS:

Section 1. It is hereby found, determined and declared that (i) the recitals set forth in the preamble to this Resolution, which are incorporated in this Section by reference, are true and correct; (ii) the total amount of money to be provided for the acquisition, construction, equipping and installation of the Project to be financed by the Note together with the costs of issuance of the Note will not exceed THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000); (iii) the School has represented that it will have sufficient financial resources to acquire, construct, equip and install the Project throughout the term of the Note, meeting when due the obligations of the proposed loan agreement; and (iv) sufficient safeguards will be provided by the loan agreement to insure that all money provided pursuant to the Note will be expended by way of direct expenditure or reimbursement, solely and only for the purposes of the Project.

Section 2. It is hereby found, determined and declared that the cost of financing the Project will be paid out of the proceeds of the Note and such contributions of the School as may be necessary; **THAT NONE OF THE NOTE WILL BE GENERAL OBLIGATIONS OF THE ISSUER; THAT NEITHER THE NOTE NOR THE INTEREST THEREON SHALL CONSTITUTE OR GIVE RISE TO ANY INDEBTEDNESS OF THE ISSUER OR ANY CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER, BUT THAT THE NOTE AND**

THE PAYMENT OF INTEREST THEREON SHALL BE SECURED AND PAYABLE SOLELY AND ONLY BY A PLEDGE OF AMOUNTS TO BE PAID BY THE SCHOOL UNDER SUCH LOAN AGREEMENT; AND THAT NO PART OF SAID COSTS WILL BE PAYABLE OUT OF ANY GENERAL FUNDS, REVENUES, ASSETS, PROPERTIES OR OTHER CONTRIBUTIONS OF THE ISSUER.

Section 3. In order to induce the acquisition, construction, equipping and installation of the Project with the resultant public benefits and educational benefits for the residents of the Issuer which will flow therefrom, it is deemed necessary and advisable that the Memorandum of Agreement hereinafter referred to be approved and executed for and on behalf of the Issuer. Accordingly, the Memorandum of Agreement by and between the School and the Issuer, substantially in the form and with the contents set forth in EXHIBIT A attached hereto and incorporated herein by reference, be and hereby is approved by the City Council and the Mayor is hereby authorized and directed to execute and deliver said Memorandum of Agreement.

Section 4. It is hereby found, determined and declared that the acquisition, construction, equipping and installation of the Project should be undertaken or caused to be undertaken by the School. Accordingly, the School is hereby authorized to formulate and develop plans for the acquisition, construction, equipping and installation of the Project and to enter into such contracts and undertakings as may be required for the acquisition, construction, equipping and installation of the Project.

Section 5. This Resolution and the Memorandum of Agreement approved hereby constitute the present intent of the Issuer to issue the Note at a later date; provided, however, it is acknowledged and agreed that prior to the actual issuance of the Note, if to be tax-exempt, there must first be held a public hearing with reasonable public notice as required by the Tax Equity and Fiscal Responsibility Act of 1982.

Section 6. Stites & Harbison, PLLC, is hereby approved as Note Counsel. Note Counsel is authorized and directed to take any legal action necessary or appropriate in connection with the issuance of the Note. The Issuer's attorney is authorized and directed to assist Note Counsel in any appropriate manner.

Section 7. (a) The commitment of the Issuer pursuant to this Resolution is subject to the condition that on or before one year from the date hereof or such other date as shall be agreed upon by the Issuer, the Issuer shall have agreed to acceptable terms and conditions with respect to the loan agreement referred to in this Resolution and the details of the Note financing.

(b) If the event set forth in subparagraph (a) does not take place within the time set forth therein, or any agreed extension thereof, and the Note are not issued within such time, the School shall reimburse the Issuer for all reasonable and necessary direct out-of-pocket expenses which the Issuer may incur at the School's request arising from this Resolution and the performance by the Issuer of its obligations hereunder shall thereupon terminate.

Section 8. To the extent any municipal order, resolution or ordinance is in conflict with this Resolution, the provisions of this Resolution shall prevail and be given effect.

Section 9. This Resolution shall be in full force and effect from and after its adoption as provided by law.

UPON MOTION BY COUNCILMAN COPELAND, DULY SECONDED BY COUNCILMAN DONES, RESOLUTION R2018-07 INDUSTRIAL REVENUE BOND WAS APPROVED. MOTION CARRIED 5 TO 0.

GAS FRANCHISE PRESENTATION AND DISCUSSION

City Attorney Butler explained that having this franchise agreement in ordinance form would allow the City to grant a franchise, but there would still need to be an open bid and a subsequent agreement that would contain the rate and other terms.

FIRST READING OF ORDINANCE B2018-11 GAS FRANCHISE

Councilman Kelley introduced the ordinance and asked that it be read in full. City Attorney Butler read the following:

ORDINANCE NO. B2018-11
COMMONWEALTH OF KENTUCKY
CITY OF BARDSTOWN

AN ORDINANCE CREATING A FRANCHISE FOR THE ERECTION, LAYING AND MAINTENANCE OF NATURAL GAS FACILITIES AND APPURTENANT FACILITIES AND EQUIPMENT IN, ALONG AND ACROSS THE PUBLIC WAYS, ROADS, STREETS, ALLEYS AND OTHER PUBLIC PLACES IN THE CITY OF BARDSTOWN, KENTUCKY: FOR FURNISHING AND SELLING NATURAL GAS BY MEANS OF SAID FACILITIES; AND PROVIDING FOR THE SALE OF SAID FRANCHISE.

WHEREAS, the City of Bardstown (“City”) wishes to ensure that natural gas service continues to be furnished to its citizens in a reliable and efficient manner;

WHEREAS, the City is aware that the provision of such service requires the continued use of public streets, ways, alleys and other public places;

WHEREAS, the franchise granted to and acquired by Louisville Gas and Electric Company on April 8, 1986, under which that utility provided such service, has expired by its terms; April 8, 2006

WHEREAS, the City wishes to provide for the sale of a new franchise for the benefit of its citizenry, giving effect to Section 96.010 of the Kentucky Revised Statutes;

NOW, THEREFORE, BE IT ORDAINED as follows:

Section 1. An exclusive franchise (“Franchise”) to use the City’s public rights-of-way, as described in the Franchise Agreement attached to this Ordinance, is hereby created.

Section 2. The Franchise created by this Ordinance shall be bid in accordance with the applicable requirements of the Constitution of the Commonwealth of Kentucky and Chapter 424 of the Kentucky Revised Statutes, as well as any applicable City ordinances.

Section 3. The Franchise created by this Ordinance shall be awarded to the highest and best bidder as shall be determined by the City in its sole discretion. In awarding the Franchise, the City shall consider the technical, managerial, and financial qualifications of the bidder to perform its obligations under the Franchise.

Section 4. The winning bidder and the City shall negotiate, execute and be bound by a Franchise Agreement with terms identical to, or substantially identical to, the Franchise Agreement referenced in Section 1 above and attached hereto, such Agreement to contain terms “that are fair and reasonable to the City, to the purchaser of the Franchise and to the patrons of the utility” (KRS Section 96.010). Such Franchise Agreement shall take effect on July 1, 2018, to allow the City and the winning bidder to develop appropriate procedures for identifying and reviewing the natural-gas consuming entities within the City’s corporate limits.

Section 5. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 6. Should any section, clause, line, paragraph, or part of this Ordinance or the attached Agreement be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this Ordinance or the attached Agreement, as applicable.

Section 7. Time is of the essence in carrying out the terms and the provisions of this Ordinance and the Franchise created herein.

Section 8. This Ordinance shall become effective from and after its passage and publication as required by law.

CEMETERY DEEDS

THE CEMETERY DEEDS FOR HERBERT HANLEY AND DAVID OLIVER WERE APPROVED BY UNANIMOUS CONSENT.

REAPPOINTMENT OF KEITH WEST – SPALDING HALL BOARD – TWO (2) YEAR TERM

UPON MOTION BY COUNCILMAN DONES, DULY SECONDED BY COUNCILMAN BUCKMAN, THE REAPPOINTMENT OF KEITH WEST TO THE SPALDING HALL BOARD FOR A TWO (2) YEAR TERM EFFECTIVE 5/01/2020 WAS APPROVED. MOTION CARRIED 5 TO 0.

SECOND READING OF ORDINANCE B2018-07 CHAPTER 122 OUTDOOR CAFES

City Attorney Butler read the following:

ORDINANCE NO. B2018-07

AN ORDINANCE AMENDING AND ADOPTING AS AMENDED AN ORDINANCE RELATING TO CHAPTER 122 OUTDOOR CAFÉS OF THE CITY OF BARDSTOWN’S CODE OF ORDINANCES

THE CITY COUNCIL OF THE CITY OF BARDSTOWN, KENTUCKY DOES ORDAIN AS FOLLOWS:

That amendments be made to CHAPTER 122: OUTDOOR CAFÉS, Section 122.02 Permit Required and 122.05 Forms and Conditions of the City of Bardstown’s Code of Ordinances as follows:

§ 122.02 Permit Required

(B) Permits shall be issued only to businesses properly licensed by the City, which wish to provide service to its patrons or to locate tables and chairs or other objects directly related to their business of food and refreshment service on the public property immediately adjacent to their businesses. ~~No Outdoor Café Permit shall be issued to any business that sells alcoholic beverages unless that business establishes that at least fifty percent (50%) of its gross revenue is derived from the sale of food.~~

(Ord. B2007-12, passed 6-5-07) Penalty, see § 122.99

§ 122.05 Forms and Conditions

(B) In addition to naming the permittee and any other information deemed appropriate by the Administrator, the permit shall contain the following conditions:

- (1.) Each permit shall be effective for one fiscal year from [~~July 1st through June 30th~~] May 1st through April 30th (pro-rated to \$37.50 for three (3) months or less) and subject to annual renewal, unless revoked or suspended prior to expiration. No fees will be refunded for revocations or periods of suspension.

(Ord. B2007-12, passed 6-5-07) Penalty, see § 122.99

This ordinance or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

This ordinance shall be in full force and effect following publication in summary as required by law.

COUNCILMAN BUCKMAN MOVED TO ADOPT ORDINANCE B2018-07 CHAPTER 122 OUTDOOR CAFES AS READ IN FULL. THE MOTION WAS DULY SECONDED BY CONCILMAN SHECKLES.

THE MAYOR CALLED THE ROLL AND THE FOLLOWING VOTED:

COUNCILMAN KELLEY	-	AYE
COUNCILMAN COPELAND	-	AYE
COUNCILMAN BUCKMAN	-	AYE
COUNCILMAN WILLIAMS	-	ABSENT
COUNCILMAN SHECKLES	-	AYE
COUNCILMAN DONES	-	AYE

MAYOR HEATON THEN DECLARED ORDINANCE NO. B2018-07 ADOPTED. IT WILL BE RECORDED IN ORDINANCE BOOK NO. 10, PAGE NO. _____.

SECOND READING OF ORDINANCE B2018-10 CHAPTER 32 CITY COUNCIL

City Attorney Butler read the following:

ORDINANCE NO. B2018-10

AN ORDINANCE AMENDING AND ADOPTING AS AMENDED AN ORDINANCE RELATING TO CHAPTER 32 CITY COUNCIL OF THE CITY OF BARDSTOWN’S CODE OF ORDINANCES

THE CITY COUNCIL OF THE CITY OF BARDSTOWN, KENTUCKY DOES ORDAIN AS FOLLOWS:

That amendments be made to CHAPTER 32: CITY COUNCIL, Section 32.05 Compensation of Council Member of the City of Bardstown’s Code of Ordinances as follows:

§ 32.05 COMPENSATION OF COUNCIL MEMBER.

Each Council member shall be paid the sum [~~\$750.00~~] **\$1,250** per month, **and shall be adjusted annually to increase compensation by the amount equal to the increase in the consumer price index for the preceding year as calculated by the Department for Local Government.**

(Ord. 646, passed 3-24-98)

This ordinance or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

This ordinance shall be in full force and effect following publication in summary as required by law.

COUNCILMAN KELLEY MOVED TO ADOPT ORDINANCE B2018-10 CHAPTER 32 CITY COUNCIL AS READ IN FULL. THE MOTION WAS DULY SECONDED BY CONCILMAN SHECKLES.

THE MAYOR CALLED THE ROLL AND THE FOLLOWING VOTED:

COUNCILMAN KELLEY	-	AYE
COUNCILMAN COPELAND	-	AYE
COUNCILMAN BUCKMAN	-	AYE
COUNCILMAN WILLIAMS	-	ABSENT
COUNCILMAN SHECKLES	-	AYE
COUNCILMAN DONES	-	AYE

MAYOR HEATON THEN DECLARED ORDINANCE NO. B2018-10 ADOPTED. IT WILL BE RECORDED IN ORDINANCE BOOK NO. 10, PAGE NO. _____.

SECOND READING OF ORDINANCE B2018-09 CHAPTER 31 MAYOR

City Attorney Butler read the following:

ORDINANCE NO. B2018-09

AN ORDINANCE AMENDING AND ADOPTING AS AMENDED AN ORDINANCE RELATING TO CHAPTER 31 MAYOR OF THE CITY OF BARDSTOWN’S CODE OF ORDINANCES

THE CITY COUNCIL OF THE CITY OF BARDSTOWN, KENTUCKY DOES ORDAIN AS FOLLOWS:

That amendments be made to CHAPTER 31: MAYOR, Section 31.04 Compensation of the City of Bardstown’s Code of Ordinances as follows:

§ 31.04 COMPENSATION.

The Mayor shall be paid the sum of [~~\$1,500~~] **\$2,500** per month, **and shall be adjusted annually to increase compensation by the amount equal to the increase in the consumer price index for the preceding year as calculated by the Department for Local Government.**

(Ord. 645, passed 3-24-98)

All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

This Ordinance shall take effect and be in force immediately upon its passage, approval, and publication as required by law.

COUNCILMAN DONES MOVED TO ADOPT ORDINANCE B2018-09 CHAPTER 31 MAYOR AS READ IN FULL. THE MOTION WAS DULY SECONDED BY CONCILMAN SHECKLES.

THE MAYOR CALLED THE ROLL AND THE FOLLOWING VOTED:

COUNCILMAN KELLEY	-	AYE
COUNCILMAN COPELAND	-	AYE
COUNCILMAN BUCKMAN	-	AYE
COUNCILMAN WILLIAMS	-	ABSENT
COUNCILMAN SHECKLES	-	AYE
COUNCILMAN DONES	-	AYE

MAYOR HEATON THEN DECLARED ORDINANCE NO. B2018-09 ADOPTED. IT WILL BE RECORDED IN ORDINANCE BOOK NO. 10, PAGE NO. _____.

COUNCIL COMMENTS

Councilman Copeland thanked the Mayor and the other Councilmen for their attendance at the recent Annual Summit hosted by the Kentucky Black Caucus for Local Elected Officials (KBC-LEO). Mayor Heaton enjoyed his participation and commended the Summit hosts on doing such a great job.

FINANCE

CFO Hudson distributed the first draft of the FY 2019 Budget and Mayor Heaton provided a brief summary of the key points. CFO Hudson also elaborated on several items and further discussion and review of the budget is planned for the Council meeting later in May.

MAYOR’S REPORT

Mayor Heaton discussed the status of the recent land purchases and how the cost will be amortized across the departments that are utilizing the new land and space. The length of time of the amortization per department may vary.

ADJOURNMENT

COUNCILMAN SHECKLES MOVED TO ADJOURN THE MEETING AT 5:39PM. THE MOTION WAS DULY SECONDED BY COUNCILMAN COPELAND AND CARRIED BY A VOTE OF 5 TO 0.

CITY OF BARDSTOWN

J. Richard Heaton, Mayor

ATTEST:

Mary Riley, City Clerk