

CITY OF BARDSTOWN
REGULAR COUNCIL MEETING MINUTES

5-26-09

7:25 P.M.

(A Public Hearing on electric rates was held at 7:00 p.m.)

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

Councilman Reed
Councilman Williams
Councilman Lydian
Councilman Sheckles
Councilman Royalty
Councilman Simpson

Others present were: Police Chief Marksbury, Assistant City Administrator Green, Chief Financial Officer Abell, Public Works and Engineering Director Hamilton, City Civil Engineer Greenwell, City Attorney Donan, City Clerk Blincoe, Historic Preservation Administrator Bogert, The Kentucky Standard reporter Stephanie Hornback, WBRT/WOKH reporter Fred Hagan, WYSB reporter Tom Redmon, PLG-TV reporter Tom Isaac, Dawn Przystal with the Tourist Commission, Thomas Hall, David H. Hall, Penny Hazard, George Heath, Nancy Talbott, Susan & Lee Thomason, John & Tina Ferguson, Larry Burke, Bill McCloskey, Dixie Hibbs, Rita Riley, Pam Hill, Mary Carey and Vicki Renisch.

Mayor Heaton called the meeting to order at 7:25 p.m.

HISTORIC PRESERVATION AWARDS

Historic Preservation Administrator Pen Bogert and Mayor Heaton presented the awards as follows:

- Best Rehabilitation in a Residence-202 S. Third Street-Talbott Family (Julie Talbott) Contractor: Ben Tyler Company.
- Best Exterior Alteration to a Residence-112 S. Fifth Street-Larry and Sheila Burke
- Best New Residential Construction-211-215 N. Fourth Street-JTD Holdings, LLC (Joe & Jenny Buckman).
- Best Exterior Alteration to a Commercial Building-116 N. Third Street (At Mary's)- Mary Carey.
- Best Adaptive Reuse of a Commercial Building-106 N. Fourth Street-Charles Lee Thomason
- Best New Non-Residential Construction-Farmer's Market-Pavilion-Contractor: Danny Raisor-Former Mayor Dixie Hibbs accepted the award.

FERC CONTRACT

Public Works and Engineering Director Hamilton presented the agreement to accept the new formula rates from Kentucky Utilities which will increase approximately twelve percent. This agreement approved by the Federal Energy Regulatory Commission (FERC) contains rates that will be adjusted annually. The new agreement formalizes the rates charged by Kentucky Utilities, the City's wholesale electric supplier, to the City of Bardstown. **UPON MOTION OF COUNCILMAN SIMPSON, DULY SECONDED BY COUNCILMAN WILLIAMS AND CARRIED BY A VOTE OF 6 TO 0, THE MAYOR WAS AUTHORIZED TO EXECUTE THE AGREEMENT.**

SECOND READING - #2307-MARY LYNN SMITH AND PAT HAGAN & JOHN HARNED-B-3 TO R-1T

The second reading was presented as follows:

ORDINANCE NO. B2009-04

AN ORDINANCE AMENDING AND ADOPTING AS AMENDED ZONING MAP, ENTITLED, "ZONING MAP, CITIES OF BARDSTOWN, BLOOMFIELD, FAIRFIELD, NEW HAVEN, AND NELSON COUNTY, KENTUCKY" BY CHANGING THE DISTRICT CLASSIFICATION OF THE PROPERTY LOCATED IN BARDSTOWN, KENTUCKY, AS HEREINAFTER DESCRIBED FROM B-3, REGIONAL RETAIL BUSINESS DISTRICT TO R-1T, SINGLE-FAMILY RESIDENTIAL TOWNHOUSE DISTRICT.

WHEREAS, the Joint City-County Planning Commission of Nelson County, Kentucky, on April 14, 2009, held a public hearing on the Application No. 2307 of Mary Lynn Smith (Applicant/Owner) and Pat Hagan and John Harned (Co-applicants/Buyers) to rezone 0.54 acre (Tracts #4 and #5, Town House, Inc.) on the west side of North Second Street, approximately 300 feet south of O'Bryan Avenue and approximately 300 feet east of North Third Street (US 150/US 31E) from B-3, Regional Retail Business District to R-1T, Single-Family Residential Townhouse District.

WHEREAS, the City Council members conducted a review of the record and evidence presented before the Joint City-County Planning Commission of Nelson County, Kentucky; and

UPON MOTION OF Councilman Lydian, duly seconded by Councilman Reed and carried, the City Council approved the recommendation along with the conditions stated from the Planning and Zoning Commission to approve the rezoning request.

NOW THEREFORE, be it ordained by the Bardstown City Council that:

Boundaries of the district as shown on district map, entitled, "**ZONING MAP, CITIES OF BARDSTOWN, BLOOMFIELD, FAIRFIELD, NEW HAVEN AND NELSON COUNTY, KENTUCKY**" are hereby amended for reasons adopted and all of which are made a part hereof as if fully set out herein, including the letter of recommendation dated April 29, 2009, from the said Joint City-County Planning Commission of Nelson County to the Bardstown City Council and the property is described as follows:

Being Tracts #4 and 5 of Hagan Town House, Inc. as shown on Plat of record in Plat Cabinet 1, Slot 636, in the Nelson County Clerk's office containing 0.54 acre

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

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

UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN REED, THE MAYOR CALLED THE ROLL AND THE FOLLOWING VOTED:

COUNCILMAN REED - AYE
 COUNCILMAN WILLIAMS - AYE
 COUNCILMAN LYDIAN - AYE
 COUNCILMAN SHECKLES - AYE
 COUNCILMAN ROYALTY - AYE
 COUNCILMAN SIMPSON - AYE

THE MAYOR DECLARED ORDINANCE NO. B2009-04 ADOPTED AND BE RECORDED IN ORDINANCE BOOK NO. _____, PAGE NO. _____.

SECOND READING-REZONING #1210-PLANNING COMMISSION-B-1 TO R-1B AND R-3

City Attorney Donan reported that it would be appropriate to include the binding elements passed in the previous rezoning Ordinance No. B2007-14 with this ordinance as follows:

ORDINANCE NO. B2009-05

AN ORDINANCE AMENDING AND ADOPTING AS AMENDED ZONING MAP, ENTITLED, "ZONING MAP, CITIES OF BARDSTOWN, BLOOMFIELD, FAIRFIELD, NEW HAVEN, AND NELSON COUNTY, KENTUCKY" BY CHANGING THE DISTRICT CLASSIFICATION OF THE PROPERTY LOCATED IN BARDSTOWN, KENTUCKY, AS HEREINAFTER DESCRIBED FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO R-1B, SINGLE-FAMILY RESIDENTIAL DISTRICT AND R-3, MULTI-FAMILY RESIDENTIAL DISTRICT.

WHEREAS, the Joint City-County Planning Commission of Nelson County, Kentucky, on April 14, 2009, held a public hearing on the Application No. 2310 of the Joint City-County Planning Commission to rezone 24.4 acres (Tannery Hill Development) on the east side of South First Street, 0 feet south of East Stephen Foster Avenue (US 150) and 0 feet east of John Fitch Avenue from B-1, Neighborhood Business District to R-1B, Single Family Residential District and R-3, Multi-Family Residential District.

WHEREAS, the City Council members conducted a review of the record and evidence presented before the Joint City-County Planning Commission of Nelson County, Kentucky; and

UPON MOTION OF Councilman Reed, duly seconded by Councilman Lydian and carried, the City Council approved the recommendation from the Planning and Zoning Commission to approve the rezoning request, along with the Binding Elements from the original rezoning Ordinance No. B2007-14 as follows:

1. THE BINDING ELEMENTS SUBMITTED WITH THE APPLICATION BY THE APPLICANT.
2. THE BINDING ELEMENTS CONTAINED IN THE PLANNING COMMISSION'S MOTION TO APPROVE THE REZONING WHICH SHALL BE SUBJECT TO REVIEW BY THE CITY OF BARDSTOWN.
3. NOTWITHSTANDING APPROVAL OF THE REQUESTED ZONE CHANGE, THE CITY OF BARDSTOWN RETAINS ALL RIGHTS OF REVIEW, MODIFICATION AND APPROVAL OF ANY PRELIMINARY AND FINAL PLAT PROPOSED FOR THE SUBJECT PROPERTY INCLUDING, WITHOUT LIMITATION, THE LOCATION, DESIGN, AND CONSTRUCTION OF:
 - (a) ALL STREETS, ALLEYS, UTILITIES, AND OTHER INFRASTRUCTURE IMPROVEMENTS; AND
 - (b) ANY IMPROVEMENTS TO BE LOCATED WITHIN A FLOOD PLAIN AREA.
4. THE OWNER/DEVELOPER'S TREATMENT OF ANY HISTORICAL OR ARCHAEOLOGICAL FEATURES ON THE PROPERTY INCLUDING, WITHOUT LIMITATION, EXISTING ROCK WALLS, SHALL BE AND REMAIN SUBJECT TO APPROVAL BY THE CITY OF BARDSTOWN.
5. THE OWNER/DEVELOPER SHALL COMPLY WITH PARAGRAPH 6.11(D)(3) OF THE ZONING REGULATIONS, WHICH SHALL BE SUBJECT TO REVIEW BY THE CITY OF BARDSTOWN.

NOW THEREFORE, be it ordained by the Bardstown City Council that:

Boundaries of the district as shown on district map, entitled, "ZONING MAP, CITIES OF BARDSTOWN, BLOOMFIELD, FAIRFIELD, NEW HAVEN AND NELSON COUNTY, KENTUCKY" are hereby amended for reasons adopted and all of which are made a part hereof as if fully set out herein, including the letter of recommendation dated April 29, 2009, from the said Joint City-County Planning Commission of Nelson County to the Bardstown City Council and the property is described as follows:

TRACT 1 – "Beginning a point, corner to The Heritage, Inc. (DB 304, p 235); thence N 24-42-41 W 138.64 ft.; thence N 02-46-07 W 162.91 ft.; thence S 79-15-37 E 59.55 ft.; thence N 69-22-54 E 100.00 ft.; thence N 52-52-54 E 125.00 ft.; thence N 33-22-54 E 50.00 ft.; thence S 86-07-06 E 215.00 ft.; thence S 14-23-53 W 209.66 ft.; thence S 27-52-54 W 153.00 ft.; thence S 16-53-11 W 157.44 ft.; thence N 74-07-06 W 268.81 ft. to the point of beginning containing **3.64 acres.**"

TRACT 2 – "Beginning a point, in the south right-of-way of South First Street; thence leaving said street, S 72-39-22 E 149.86 ft.; thence N 17-13-30 E 225.86 ft.; thence N 72-42-34 W 150.88 ft.; thence to a point in the right-of-way of South First Street; thence with South First Street, N 16-57-52 E 50.00 ft.; thence leaving said road right-of-way, S 75-11-54 E 238.33 ft.; thence S 74-07-06 E 268.81 ft.; thence S83-56-46 E 276.80 ft.; thence S 10-04-00 W 544.16 ft.; thence S 30-31-20 W 40.63 ft.; thence N 77-47-58 W 333.54 ft.; thence N 72-36-03 W 396.71 ft.; thence N 16-12-20 E 107.20 ft.; thence N 73-50-30 W 104.05 ft. to a point in the right-of-way of South First Street; thence with said street, N 16-57-52 E 156.50 ft. to the point of beginning containing **9.35 acres.**"

TRACT 3 – "Beginning a point, corner to The Heritage, Inc. (DB 304, p 235); thence S 72-36-03 E 396.71 ft.; thence S 77-47-58 E 333.54 ft.; thence S 30-31-20 W 123.55 ft.; thence S 62-07-07 E 40.55 ft.; thence S 33-54-04 W 337.78 ft.; thence S47-13-27 W 445.10 ft.; thence N 66-01-04 W 432.92 ft.; thence N 17-54-13 E 757.88 ft. to the point of beginning containing **11.41 acres.**"

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

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

UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN LYDIAN, THE MAYOR CALLED THE ROLL AND THE FOLLOWING VOTED:

COUNCILMAN SIMPSON - AYE
 COUNCILMAN ROYALTY - AYE
 COUNCILMAN SHECKLES - AYE
 COUNCILMAN LYDIAN - AYE
 COUNCILMAN WILLIAMS - AYE
 COUNCILMAN REED - AYE

MAYOR HEATON THEN DECLARED ORDINANCE NO. B2009-05 ADOPTED AND BE RECORDED IN ORDINANCE BOOK NO. _____, PAGE NO. _____.

HISTORICAL REVIEW BOARD RECOMMENDATIONS

The recommendations were presented as follows:

- A. Certificates of Appropriateness
 1. COA #09-18 [RECOMMENDED]

Les Backherms proposes to erect a 6' wood fence on the west side of his property between his carport at 215 W. Flaget Ave. and the adjoining Ellis property at 217 W. Flaget Ave. and also on the east side between his rear patio and 211 W. Flaget Ave. The fence will be stained white to match the house trim.

Recommendation: To recommend approval of erecting a 6' wood fence on the east and west sides of 215 W. Flaget Ave., as specified in this application.

2. COA #09-19 [RECOMMENDED]

Shear Perfection, 111 Sylvan Ave., proposes to replace their existing 8' x 4' free-standing with a new sign ("Shear Perfection Hair Salon"), same size, with gold and black lettering.

Recommendation: To recommend approval of erecting an 8' x 4' free-standing sign at 111 Sylvan Ave., as specified in this application.

3. COA #09-20 [RECOMMENDED]

Jim and Theresa Noe, 208 S. Third St., propose to construct a 16' x 20' deck at the rear of their house. It will be constructed approximately 30" above grade to match the rear door of the house and it will be inset about 12' from the rear corner of the house. It will not be visible from S. Third St. It will be constructed of wood or HardiPlank and painted beige to match the stucco of the house. The applicants also propose to erect a vintage wood arbor and to erect a wood picket fence along, or on top of, an existing modern stone/cement wall that runs along the alley at the rear of the house.

Recommendation: To recommend approval of erecting a deck, arbor, and picket fence at 208 S. Third St., as specified in this application, with the condition that the south side of the deck be setback a minimum of 8' from the edge of the alley.

4. COA #09-21 [RECOMMENDED]

Mary Carey proposes to paint the exterior of the rear of 116 N. Third St. in the following colors: Forestwood (sheet metal), white (trim and gutter), and wheat grass (door). She also proposes to place a sign from the previous location over the rear door.

Recommendation: To recommend approval of painting the rear of the exterior of 116 S. Third St. and erecting a sign at the rear entrance, as specified in this application.

5. COA #09-22 [RECOMMENDED]

Horizon Engineering LLC proposes to erect a free standing sign in front of their office at 111 N. Second St. The sign will be 4' wide, 3' high, and 2' off the ground. The sign will read "Horizon Engineering, LLC Civil Engineering & Land Surveying" with lettering in black and red (fading to gold).

Recommendation: To recommend approval of erecting a free-standing sign at 111 N. Second St., as specified in this application.

6. COA #09-23 [RECOMMENDED]

Michael and Margaret Sue Masters propose the following exterior alterations and changes to their property at 211 E. John Fitch Ave.: Remove the front porch and concrete pad; remove the concrete sidewalk leading to the porch and replace with brick; remove 1960s-era decorative shutters; demolish a carport; demolish a small aluminum-sided storage shed; replace front 3-light door with 4-panel solid wood door; enlarge door framing width from 3 1/2' to 5 1/2"; move rear stone steps to front; remove aluminum storm doors and windows and replace with single-pane storm windows painted to match trim; paint chimney black (now painted green) to match roof; paint body of house Sherwin-Williams Jute 314-5 and the trim Sherwin-Williams Favorite Tan 6157. Door color will be submitted later. Finally, the applicants seek a Conditional Use Permit to use the house as a bed and breakfast, with parking for 2 cars.

Recommendation: To recommend approval of exterior alterations, exterior painting, landscaping, removal of carport, shed, and front porch, and conditional use as a bed and breakfast at 211 E. John Fitch Ave., as specified in this application, with the following condition: the metal roof of the house must remain seamless from ridge to eave after the removal of the front porch roof.

7. COA #09-24 [RECOMMENDATION]

City Market, 216 W. Stephen Foster Ave., proposes to replace their existing signs with "Corner Café and Bakery" in the same size and colors. Staff approval given for this on April 10.

Recommendation: To recommend approval of the replacement of signs at City Market, 216 W. Stephen Foster Ave., as specified in this application.

B. Staff Approvals [AFFIRMED]

1. Staff approval given to Jeanette Cantrell, 214 W. Stephen Foster Ave., to replace the canvas roof over a rear deck with a metal roof painted in the same color. The deck is not visible from the street or alley.

C. Historic Preservation Awards

UPON MOTION OF COUNCILMAN SHECKLES, DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0, THE RECOMMENDATIONS WERE APPROVED.

LETTER COMMENDING OFFICER TOM BLAIR

Mayor Heaton presented a letter from Rev. Karl Lusk, Chaplain with Flaget Memorial Hospital, commending Bardstown Police Officer Tom Blair for the excellent care and compassion shown to a seven year old girl who suffered a serious hand injury in a motor vehicle accident on May 7, 2009. The Mayor added his personal appreciation to Officer Blair for a job well done.

MINUTES

The minutes from the 5-12-09 regular City Council meeting were then presented and **UPON MOTION OF COUNCILMAN LYDIAN, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED BY A VOTE OF 6 TO 0, THEY WERE APPROVED.**

FY 2009-2010 TOURIST COMMISSION BUDGET

Dawn Przystal with the Tourist Commission presented the upcoming budget for the Tourist Commission. **UPON MOTION OF COUNCILMAN REED, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED BY A VOTE OF 6 TO 0, THE FY 2009-2010 BUDGET WAS APPROVED.**

DOWNTOWN STREETScape PROJECT PHASE I

Tree Board Chairman Dixie Hibbs presented a recommendation from the Board from its May 20th meeting held at City Hall regarding the Streetscape Project, Phase I. The Board recommended keeping with the practice of prior decisions and philosophy of the Board and recommended the following: 1. Retain the current trees in the 100 and 200 blocks of North Third Street; 2. Replace any tree damaged by the construction of the Streetscape Project in its current location or another location if the new utility strip (electric or water) prohibits it; and 3. Encourage adding three (3) additional trees to the 200 block of North Third Street as designed in the Streetscape Project. Mayor Heaton reported that the Streetscape Steering Committee met on May 21st and their recommendation was very similar to that of the Tree Board. Other comments were received in favor of keeping the trees. Mainstreet Coordinator Rita Riley reported that she had received a petition of approximately 100 names of people who did not support the removal of the trees. HRB Preservation Administrator Pen Bogert emphasized that it was never the intent of the HRB to remove trees but to follow the Kentucky Heritage Council guidelines for narrow setbacks.

Assistant City Administrator Green reported that he talked with Ken O'Day, landscape architect for the project, and he believed that most of the trees would die during the construction phase. Also, the trees would impact the lighting plan and he may need to redesign the plan and the paving plan. The difference in the tree heights may need to be studied. **After further discussion about the present condition of the trees,** COUNCILMAN SIMPSON MADE A MOTION TO AMEND THE DESIGN OF PHASE I OF THE DOWNTOWN STREETScape PLAN TO SAVE AS MANY TREES AS POSSIBLE AND REPLACE ANY TREES THAT ARE LOST AND HAVE A TOTAL OF NINE TREES IN THE 200 BLOCK OF NORTH THIRD STREET. SAID MOTION WAS DULY SECONDED BY COUNCILMAN ROYALTY AND CARRIED BY A VOTE OF 6 TO 0. Mayor Heaton thanked everyone for their input.

FY 2009-2010 CITY BUDGET

Chief Financial Officer Abell reported that due to the KU rate changes, grant fund receipts and other questions concerning the Water and Sewer Departments, the budget was not completed. It will be sent out to the Council as soon as the figures become available.

DOG PARK

Vicki Renisch, a resident on East Beall Avenue, requested that the Council consider establishing a Dog Park in the City. It would be a nice place for the dogs and their owners to visit and enjoy the outdoors, especially for dogs kept in an apartment or place without yards. Louisville and Lexington are two cities that have established these parks. HRB Administrator Bogert said that it would only take about one-half acre of land for the park. Ms. Renisch will obtain additional information and report back to the Council on the rules and liability issues.

REAPPOINTMENT

Mayor Heaton said that he wanted to reappoint Ralph Buckley for another 2-year term on the Bardstown Industrial Development Corporation (BIDC) Board. **UPON MOTION OF COUNCILMAN WILLIAMS, DULY SECONDED BY COUNCILMAN SHECKLES AND CARRIED BY A VOTE OF 6 TO 0, THE REAPPOINTMENT WAS APPROVED.**

CEMETERY DEED

A cemetery deed for Sally Mattingly for two graves in the Bardstown Cemetery was presented and **UPON MOTION OF COUNCILMAN SHECKLES, DULY SECONDED BY COUNCILMAN SIMPSON AND CARRIED BY A VOTE OF 6 TO 0, IT WAS APPROVED.**

RECREATION BOARD MEETING

Councilman Sheckles reported that there would be a Recreation Board meeting on Thursday, May 28, 2009 at 6:00 p.m.

POLICE DEPARTMENT REPORT

Police Chief Marksbury reported on the state's 'Click-It or Ticket' program on seatbelt usage. In the last week, seventy tickets had been written for violations. The department received a \$1500 mini grant for the program. He also reported that six officers had been trained on taser usage and were equipped with the device.

ADJOURNMENT

Being no further business to discuss and **UPON MOTION OF COUNCILMAN ROYALTY, DULY SECONDED BY COUNCILMAN REED AND CARRIED BY A VOTE OF 6 TO 0, THE MEETING WAS ADJOURNED AT 8:50 PM.**

CITY OF BARDSTOWN

ATTEST:

J. Richard Heaton, Mayor

Bobbe Blincoe, City Clerk