

**MINUTES OF COUNCIL MEETING**  
**APRIL 9, 2009**  
**6:30 P.M.**

The Murray City Council met in regular session on Thursday, April 9, 2009, at 6:30 p.m. in the Council Chambers of City Hall, with Mayor H. Thomas Rushing presiding.

**Council Members Present:** Pete Lancaster, Dan Miller, Linda Cherry, Jeremy Bell, Pat Scott, John Bowers, Robert Billington, Greg Anderson, Butch Seargent, Jane Brandon, Danny Hudspeth, and Bill Wells.

**Council Members Absent:** None.

**Staff Present:** J. L. Barnett, Ron Allbritten, Philip Morris, Ken Claud, Candace Dowdy, David Roberts, Cathy Morris, Michael Skinner, Alan Lanier, Matt Mattingly, and Harla McClure.

Minutes of the council meeting held March 26, 2009, were presented for approval. **Mr. Bowers moved, seconded by Mr. Scott**, to approve the minutes as written. With no discussion, Mayor Rushing called for a voice vote, which was unanimous in favor of the motion.

Mayor Rushing recognized Robert Billington, Chairman of the Health Insurance Committee and requested that he provide a report. Mr. Billington stated the committee met on April 2<sup>nd</sup> regarding the trust account. He stated the trust balance has dropped approximately \$200,000 over the last eight months. Beginning in April 2007, the City opted to infuse the plan with \$19,000 a month to help the health of the plan. **Mr. Billington moved, as unanimously recommended by the health insurance committee**, to increase the cost of the premiums for both the single plan and the family plan by 10%. It was also approved to amend the single plan whereby the employee will be responsible for 10% of the premium (90/10 split) and the family plan will be responsible for 20% of the premium (80/20 split). This change will become effective July 1, 2009. **Dr. Miller seconded the motion**. With no further discussion, Mayor Rushing called for the voice vote which was unanimous in favor of the motion.

**Ordinance Number 2009-1483** (second reading) an ordinance amending Chapter 150, Building Code, Section 150.01, Adoption by Reference, of the City of Murray Code of Ordinances in order to bring it in line with our current practice was presented to the council on a second reading. **Mr. Hudspeth moved, seconded by Mr. Billington** to adopt said ordinance. With no further discussion, Mayor Rushing called for the voice vote which is recorded as follows:

**AYES:** Pete Lancaster, Danny Hudspeth, Dan Miller, Linda Cherry, Jeremy Bell, Pat Scott, John Bowers, Robert Billington, Greg Anderson, Butch Seargent, Jane Brandon, and Bill Wells.

**NAYES:** None.

Mayor Rushing declared Ordinance Number 2009-1483 adopted on a second reading and recorded in Ordinance Book Number 7, Page \_\_\_\_\_.

**Ordinance Number 2009-1484** (second reading) an ordinance amending Ordinance Number 2008-1464, an ordinance which adopted the 2008-2009 City of Murray, Kentucky Annual Budget by restating Certain Revenues and Expenditures for the City of Murray, State and Federal Funded Projects. The City of Murray received grant funds from the Department for Libraries and Archives in order to security microfilm the tax assessment books between 1960 and 2002. Said grant was in the amount of \$7,448 and said ordinance was presented to the council on a second reading. **Mr. Bell moved, seconded by Mr. Bowers** to adopt said ordinance. With no further discussion, Mayor Rushing called for the voice vote which is recorded as follows:

**AYES:** Pete Lancaster, Danny Hudspeth, Dan Miller, Linda Cherry, Jeremy Bell, Pat Scott, John Bowers, Robert Billington, Greg Anderson, Butch Seargent, Jane Brandon, and Bill Wells.

**NAYES:** None.

Mayor Rushing declared Ordinance Number 2009-1484 adopted on a second reading and recorded in Ordinance Book Number 7, Page \_\_\_\_\_.

Mayor Rushing requested that the city attorney, Warren Hopkins, provide instructions to the council regarding map amendments to the zoning ordinance. He stated that there are three options that are available to the council: 1) the legislative body may follow the Commission's recommendation without a hearing or only an argument in support of its recommendation; 2) the legislative body may review the record made before the Commission and determine from that evidence adjudicated facts which differ from those found by the Commission; and 3) the legislative body may hold its own trial type hearing and based upon the evidence presented at that hearing, find different adjudicated facts than those found by the Commission. Mr. Hopkins stated that if the council votes negatively against the recommendation, they will need to present different and separate findings of fact other than what the Commission based their decision on. If the legislative body cannot establish different findings, then the vote can be considered arbitrary and capricious and overturned later.

If the legislative body fails to take action on any recommendation from Planning and Zoning, then after 90 days their recommendation is accepted. Inaction on behalf of the City Council means that the recommendation from the Planning Commission stands as accepted.

Chapter 100 of the Kentucky Revised Statutes dictates how the recommendation is handled by both the Planning Commission and the Legislative Body.

**Ordinance Number 2009-1485** (first reading) an ordinance was presented to the council on a first reading to rezone property located at 101 and 103 Spruce Street from R-5 (multi family residential) to I (industrial). Said property is comprised of 0.224 acres owned by William E. Gary and a 0.468 acre portion of right-of-way along Spruce Street. The recommendation to rezone was approved by a vote of 4-3, with one (1) abstention, based on the following findings of fact: (1) there have been major changes of an economic, social and physical nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area; (2) the rezoning will decrease the

probability of any chance of a child coming in contact with any delivery trucks because the trucks will be off the street quicker than they are now, thus reducing congestion in the area and improving vehicular and pedestrian safety; (3) the property will be used for ingress and egress of delivery trucks only; (4) Kenlake Foods currently has one entrance to the front of their facility located on L.P. Miller Street and this would give them a second means of access to the rear of the building in case of emergency situations; and (5) applicant will provide adequate screening along property lines adjacent to the residential zoning district. **Dr. Miller moved, seconded by Mr. Lancaster** to approve said ordinance.

Mr. Bowers questioned what the comprehensive plan dictated for this area. Candace Dowdy, City Planner, stated the existing land use map dated 2003 identifies the area in question as low density residential with a future land use map identifying it as moderate density residential. She stated that if a request for a map amendment is not in line with the future land use map, then it has to be shown that the existing zoning classification is inappropriate and the proposed is more appropriate or that there have been major changes of an economic, social, or physical nature that was not anticipated in the comprehensive plan.

Mr. Hudspeth believes that the findings enumerated as 2, 3, 4 and 5 do not fit with the elements necessary to make a map amendment. He further stated that he also disagrees with the first finding because he believes the only changes to the area are that there has been an increase in families moving in and houses being constructed and updated.

With no further discussion, Mayor Rushing called for the roll call vote which is recorded as follows:

**AYES:** Linda Cherry, Pat Scott, Butch Seargent, Jane Brandon, and Bill Wells.

**NAYES:** Pete Lancaster, Jeremy Bell, Dan Miller, John Bowers, Robert Billington, Greg Anderson, and Danny Hudspeth.

The vote was 5 to 7 for the first reading of said ordinance against approving the ordinance.

Mr. Hopkins stated that the council can decide if they want to hold their own public hearing of if they want to review the Planning Commissions record to determine if those findings are different from what the council thinks they should be.

**Mr. Billington moved, seconded by Mr. Bowers** to hold a public hearing on May 14, 2009 at 5:00 p.m. in the council chambers. With no further discussion, Mayor Rushing called for the voice vote which was unanimous in favor of the motion.

**Resolution Number 2009-008** a resolution adopting Section 207K of the Fair Labor Standards Act regarding overtime pay for firefighters was presented to the council for approval. **Mr. Bell moved, seconded by Dr. Miller** to approve said resolution. Matt Mattingly, Director of Administration, stated Governor Beshear signed SB 46 on March 20<sup>th</sup> and this allowed the incentive pay for firefighters to not be figured as overtime. He stated that the general counsel for the city for the lawsuit regarding fire incentive recommended that this Resolution be adopted to exempt us from federal labor law if we are ever challenged on scheduled overtime. With no

further discussion, Mayor Rushing called for the voice vote which is recorded as follows:

**AYES:** Pete Lancaster, Danny Hudspeth, Dan Miller, Linda Cherry, Jeremy Bell, Pat Scott, John Bowers, Robert Billington, Greg Anderson, Butch Seargent, Jane Brandon, and Bill Wells.

**NAYES:** None.

Mayor Rushing declared said resolution adopted.

**Municipal Order 2009-009** appointing Reverend Ronald Kendrick to the Human Rights Commission for a one year term which will expire April 9, 2010 was presented to the council for approval. **Mr. Billington moved, seconded by Mr. Hudspeth** to approve said municipal order. With no further discussion Mayor Rushing called for the voice vote which was unanimous in favor of the motion.

**Municipal Order 2009-010** appointing Kevin Perry to the City of Murray Board of Zoning Adjustments for a four year term which will expire April 9, 2013. **Mr. Seargent moved, seconded by Mr. Scott** to approve said order. With no further discussion Mayor Rushing called for the voice vote which was unanimous in favor of the motion.

**Municipal Order 2009-011** appointing Justin Pounds to the City of Murray Board of Zoning Adjustments to fill the unexpired term of Greg Mayes. Said term will expire October 27, 2011. **Mr. Anderson moved, seconded by Mr. Hudspeth** to approve said order. With no further discussion Mayor Rushing called for the voice vote which was unanimous in favor of the motion.

With no further business to come before the council, the meeting adjourned at 7:25 p.m.

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H. Thomas Rushing, Mayor

Attest:

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Harla McClure, City Clerk