

## **MINUTES OF THE COUNCIL**

August 11, 2022

6:30 P.M.

The Murray City Council met in regular session on Thursday August 11, 2022 at 6:30 p.m. in the Council Chambers at City Hall with Mayor Bob Rogers presiding.

**Council Members Present:** Mr. Bohannon, Mr. Bolin, Mr. McCuiston, Ms. Cherry, Ms. Elder, Ms. Rouse, Mr. Roberts, Dr. Young, Mr. Bell, Mr. Hudspeth and Ms. Seiber.

**Council Members Absent:** Dr. Miller

**Staff Present:** Warren Hopkins, Jim Osborne, Rakov Aetherus, Chief Jeff Liles, Kim Wyatt, Dannetta Clayton, Shane Knight, Carol Downey and Kim Miles.

Mayor Rogers called the meeting to order and welcomed Council members, staff, and guests.

After a moment of reflection, Mr. Bohannon led the Pledge of Allegiance to the Flag.

The minutes of the Council meeting of August 4, 2022 were presented for approval.

**Mr. Roberts moved for approval of the minutes; seconded by Ms. Rouse. All members present voted Aye.**

**Mayor's Report:** Mayor Rogers recognized Mr. McCuiston to give a report on the recent donations made to flood victims in Eastern Kentucky. Mr. McCuiston thanked the Mayor and Mr. Osborne for being the contacts between the KLC and getting them connected with the cities that needed the help the most and the supplies these cities needed most. Jenkins, Kentucky that has a population of around 2,000 is where our team ended up. The supplies were taken to Jenkins on Tuesday August 9. We were able to help 33 families with gift cards to Lowes. The truck was completely full of supplies as well. Mr. McCuiston said it was a team effort from our community. Mr. McCuiston said he needed to thank several people from the Pike, Lambda Chi Alpha Fraternity Brothers, Alpha Gamma Delta, Kapa Delta Sorority Sisters, Coach Turner and the MSU Basketball Team to the Council Members who helped collect in the 100-degree weather. It was a great community effort. The residents and Mayor of Jenkins were very appreciative of all that was done on their behalf.

**Ordinance 2022-1828** (Second Reading) An ordinance amending Ordinance Number 2022-1826, an ordinance which adopted the 2022-2023 City of Murray, Kentucky Annual Budget by restating certain revenues and expenditures for the City of Murray Operations Budget. (Roll Call Vote)

**Mr. Bohannon made a motion; seconded by Mr. Roberts. The motion carried with a 11-0 Roll Call Vote.**

**Mr. Bell –Yes**

**Mr. Bohannon- Yes**

**Mr. Bolin- Yes**

**Ms. Cherry- Yes**

**Ms. Elder- Yes**

**Mr. Hudspeth- Yes**

**Mr. McCuiston- Yes**

**Dr. Miller- ABSENT**

**Mr. Roberts- Yes**  
**Ms. Rouse- Yes**  
**Ms. Seiber- Yes**  
**Dr. Young- Yes**

Ordinance 2022-1828 is an amendment to the FY23 Budget to accept money from a grant to use for the new fire station. This was a second reading that passed 11-0.

### **Presentations Regarding Project on Robertson Road South**

City Planner, Ms. Carol Downey was called upon to explain what the request is for Robertson Road South. Ms. Downey explained that we are here to review the recommendation of the Planning Commission to establish the zone for the property located on the west side of Robertson Road South and approximately 1250 feet to the north of Wiswell Road, 1169 Robertson Road South. The recommended zoning request of R-4 (Multi-Family Residential) is contingent upon the requested annexation ordinance and zoning ordinance passing. Ms. Downey gave a brief timeline of the annexation process: (1) Request was received from the property owner on June 28, 2022. (2) City Staff reviewed submitted information to insure it is feasible as well as has the availability to provide services including utilities, fire protection and police protection. (3) Planning Commission met July 19, 2022 and held a Public Hearing in compliance with KRS. The Commission made a recommendation to City Council for approval, upon annexation. The vote was 6-0 with one member recused. (4) BZA met on July 20 and held a Public Hearing in compliance with KRS. The Board recommended approval of a Conditional Use Permit, requested by DMK Development Group, LLC, contingent upon the Council passing the annexation ordinance and zoning ordinance of R-4 (Multi-Family Residential). DMK Development Group's purchase of the property with the contingency of the facility layout being adjusted to the south and to the west. The vote was 5-1. (5) The Planning Department received an appeal to the recommendation of the Planning Commission on July 25, 2022. Ms. Downey explained tonight City Council is holding a Public Hearing due to the appeal. Ms. Downey showed a power point to Council, which included maps of the proposed property. Ms. Janet Finch owns the 16.935-acre tract of land located on 1169 Robertson Road South, identified as PVA parcel 033-0-0027. Public notification regulations, as per the KRS and the City of Murray Ordinances were followed for meeting that took place for Planning Commission and BZA. The request of the R-4 (Multi-Family Residential) meets the 2020 Comprehensive Plan.

DMK Developer, Ross Oberhausern came forward to speak on behalf of themselves and their operator, Charter Senior Living. Mr. Oberhausen described the proposed development, shared pictures of the interior and exterior of the facility and a conceptual site plan. This will be a single level structure with 83 beds. Fifty Six (56) of those on the assisted living side and twenty five (25) in a secured memory care unit. Mr. Oberhausern used a power point to have a visual of the facility. He explained they did push the building site back per the request of the BZA. Inside this facility, there will be a salon, bistro, activities area, library and dining area. When considering Murray, Kentucky they took into consideration the 2020 Comprehensive Plan and the closing of Fern Terrace. Looking at this information there is a bed need in this area. A third party independent study, CBRE projected a need of 89-assisted living and 67- memory beds are an unmet demand in our area. Charter Senior Living will be applying for a Personal Care License through the Office of Inspector General which will allow this facility to do some of the medical care whereas the other assisted living facilities here can only remind a patient to take medication this will allow them to administer the medication. He explained their operating partner would be Charter Senior Living and the positive economic impact the development would have on the city. The construction process of this development will create about 300 temporary jobs for our area from the time they break ground until completion that takes anywhere from 12-14 months, total construction is approximately 14 million dollars and about \$500,000 will be direct impact on our community from the construction process. 40-60 full time jobs will be created depending upon the occupancy rate of the facility.

City Attorney Warren Hopkins stated as a matter of procedure, that he wanted us to know what the effect of this Hearing is before we proceed. Pursuant to our ordinances, City of Murray Ordinance §156.062, this ordinance was revised and passed in August of 2016, the Planning Commission shall follow the procedures as outlined in KRS 100.2111 that cuts into the recommendation to approve or deny a proposed zoning map amendment. This is what we are relying on as our legal precedence tonight. This is our rule and ordinance that we have accepted. We are having a Public Hearing tonight as a result of the Planning Commission Recommendation to zone 1169 Robertson Road South an R-4 Zone. The Planning

Commission followed procedures that was authorized through KRS 100.2111, The Public Notice Chapter 424 of the Statutes.

**Mr. Hudspeth made a motion to open the Public Hearing; seconded by Ms. Rouse. All members present voted Aye.**

**Mayor Rogers swore in all who testified in. They had five (5) minutes to give their testimony.**

Mark Manning, a neighbor, of the proposed property stated he has zero objections to the project. He said he thinks it is a quality development, the jobs and payroll tax will be welcomed. He believes our senior population deserves this type of facility. He sees no reason why the traffic would be any worse than what we have going on in front of the Library on Main Street.

Bobby Deitz stated he was an engineer employed by the firm who is working with the developers. He wanted Council Members to know that the design and construction will be in full accordance with zoning and ordinances in all aspects including storm water.

Mr. Finch thanked everyone for coming and considering the request. He stated he and his wife owns the property that is being considered. He believes this is a facility to be proud of and hopes everyone can see the need the community has for it. Mr. Finch said the developers are trying to work with the design by setting this facility back off the road to make it look more appealing to neighbors.

Mrs. Falwell stated she knew nothing of this development before reading about it in the paper. Mrs. Falwell declared she and her husband, Bobby, were representing Falwell Estates and she started a petition in opposition of the requested zoning, which she submitted for the record. Mrs. Falwell described the reasons she and some of the other neighboring property owners were against the zoning including possible staffing issues, increased traffic, drainage problems, and incompatibility with the surrounding area. Ms. Falwell stated she felt there was a better place for this facility.

Matt Falwell came forward and stated he wanted the Council to be mindful of what is best for the community. He feels this development would rob the property owners of their equity in their homes. He stated these people are invested in this property for the long term.

Ms. Provine who signed in passed on speaking.

Mr. Nance claimed this facility would affect property values, the future of new single-family homes in the areas and the future development of the city.

Mr. Hendrick stated he and his wife just built a house to get in a more quite area. They wanted to get away from traffic and sirens. They enjoy their property and believe this development would be a hindrance on the community.

Ms. Sturges reiterated the traffic and road concerns. She stated the curve in the road was a concern as well as who would maintain this road.

Mr. Spann stated traffic was a concern of his. Traffic from Wiswell Road and Robertson Road is an issue. He believed property values would go down. He is also concerned with the R-4 zoning. This would allow others to develop apartments.

Mr. Penniston stated his property is directly in front of the proposed property. He is concern as to the placement and orientation of the property. He pointed out to Council that he could not get an answer as to how far back this facility could be pushed back. He does not like that the front of the building does not face the road. He believes there is no curb appeal.

Mr. O'Dell stated he was in the health care field. He did not like they used Fern Terrace as an excuse to build in Murray. He feels the private pay base rate is not affordable to Murray. Fern Terrace was not private pay. He also stated that the roads are too dangerous. Staffing would be an issue because there is already an issue with having enough nurses.

Mr. Penner stated he wanted to reiterate what Mr. O'Dell just stated. He repeated the hospital is 26 nurses short as of today. He wanted everyone to understand how unaffordable this facility is.

Mr. Allen stated this facility would disrupt our community. This he feels does not meet the 2020 Comp Plan as previously stated. He believes the road would be an issue.

Mr. Besand indicated his worry as to how this facility will affect the property value of his and his neighbors' homes. He is cornered with traffic. He feels this would be better suited in another area. 100 neighbors have signed a petition according to Mr. Besand.

Mr. Crofton ask that we not ignore that our community is not ready for this facility. Many problems come with this development. He believes this is a single-family area. He believes the danger of the road and the maintenance of the road will be a problem. He stated he is a city taxpayer and there is no patrolling from police and no street maintenance.

Mr. Oberhausen rebutted that this development did give out contact information and he gave it to the local paper in a press release. He also stated this is a for-profit developer as well as Ms. Falwell is a for-profit developer. This has not been hidden. This does not look like a hotel. It is a single story building. He did give the locations of other facilities. These are in residential areas. He has done studies with the value of properties before and after these facilities being built and has discovered it does not lower property values. He addressed the lighting pollution will not be an issue. This is where the residence of the elderly who need their rest. It will be a zero foot-candle at property line. The parking and amount of traffic would be no more than the amount of traffic that would be generated from developing this property as single-family homes. Most of the residents will not drive. The northern set back would be 84 feet and the southern set back would be 104 feet from the road. They do not have to be in the city to develop this property. They would like to be in the city limits for utilities. We can build in the county. We would just like to have the amenities.

### **Council Questions:**

Ms. Elder asked how far off Robertson Road is the facility. Mr. Oberhausern stated 86 on the north and 104 from the south side.

Dr. Young asked if it would be facing the road. The answer was no. Dr. Young asked why it could not be downscaled. The reply was we have an established model that we use.

Ms. Seiber asked if it is not annexed would they build. The reply was yes.

Mr. Hudspeth asked about the sewer. The reply was the Finch's signed for an easement and they would like to use the city for these utilities. It is sized accordingly. If needed they will do their own well and sewage system.

Mr. Bolin asked this is only if not annexed. The reply was if annexed we would use city sewage and water if not build our own.

Mr. McCuiston stated they were not willing to down size but they are willing to build a treatment plant and dig a well, which is extra cost. The reply was they know what the costs are. This would be saved in taxes.

Mr. Bohannon asked if they were planning to build on that property regardless of the annexation. The reply was that is the intentions.

Mr. Hudspeth asked Mr. Hopkins what would stop this from being built there if it is not annexed. The reply was nothing. It would be in the county.

Dr. Young asked the Mayor if it was a decision that we had to make tonight. The reply was the decision

needs to be made tonight because of the public hearing.

Mr. Hudspeth questioned the R-4 opening up other developments in that area. Mr. Hopkins stated the state law KRS100.984 addresses this. It can be placed in any area. The BZA would not have to approve. According to state laws, it can be R-2 or R-4 and be developed.

Ms. Seiber asked how can we protect these residents. The reply was the BZA could set some rules if it is annexed. The R-4 would give more control. If it remains in the county, they can do as they wish.

**Mr. Roberts made a motion to adjourn the Public Hearing; seconded by Mr. Bohannon. All members present voted Aye.**

Mr. Hopkins explained the Public Hearing is now over. Mr. Hopkins stated that the Council's job is to determine if the Council wants to over-turn the recommendation provided by the Planning Committee. That recommendation is for this property to be brought into the city limits of Murray and that zone to be established as an R-4 Multi-Family Residential. Your vote is to determine if you are going to over-ride that recommendation. A yes vote will mean that you are over-riding it. A no vote will mean that you are not over-riding it. It takes a majority of the entire body of the legislative body, we will need at least seven (7) of the Council must vote yes to over-ride it. We are voting on what the zone is if the property is annexed into the city.

**Mr. Bohannon made a motion to over-ride the R-4 zoning recommendation made by the Planning Commission; seconded by Ms. Cherry. The motion carried with an 11-0 Roll Call Vote.**

**Robertson Road South Appeal** (Roll Call Vote on Robertson Rd)

**Mr. Bell-Yes  
Mr. Bohannon-Yes  
Mr. Bolin-Yes  
Ms. Cherry-Yes  
Ms. Elder-Yes  
Mr. Hudspeth-Yes  
Mr. McCuiston-Yes  
Dr. Miller-ABSENT  
Mr. Roberts-Yes  
Ms. Rouse-Yes  
Ms. Seiber-Yes  
Dr. Young-Yes**

To clarify that the property could still be developed in an R-2 zone Mr. Hopkins stated per State Law this type of facility could be developed. Mr. Bolin restated those words for his own clarification.

**Mr. Bolin made a motion to amend Ordinance 2022-1830 from an R-4 Multi-Family an R-2 Single-Family; seconded by Ms. Cherry. Motion carried 9-2 with a Roll Call Vote.**

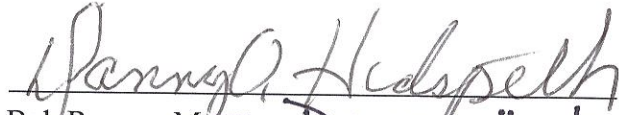
**Mr. Bell-No  
Mr. Bohannon-No  
Mr. Bolin-Yes  
Ms. Cherry-Yes  
Ms. Elder-Yes  
Mr. Hudspeth-Yes  
Mr. McCuiston-Yes  
Dr. Miller-ABSENT  
Mr. Roberts-Yes  
Ms. Rouse-Yes  
Ms. Seiber-Yes  
Dr. Young-Yes**

**Ordinance 2022-1830** (First Reading) An ordinance amending Ordinance number 794 of the City of Murray Code of Ordinances so as to Zone a 16.935 Acre Tract of Land Identified as Tract 1, PVA Parcel

033-0-0027, located at 1169 Robertson Road South, Murray, KY and owned by Janet B Finch as "R-2" Single-Family. (No Vote)

**Ordinance 2022-1829** (First Reading) An ordinance of the City of Murray, Kentucky annexing a 16.935 acre tract of land, specifically being tract 1, PVA Parcel Number 033-0-0027, located at 1169 Robertson Road South, Murray KY, owned by Janet B. Finch and contiguous to the present City Limits. (No Vote)

With no other business before the Council, **Mr. Bell moved to adjourn; seconded by Mr. Bohannon. All members present voted Aye.** The meeting adjourned at 8:56 P.M.



~~Bob Rogers, Mayor~~

Danny Hudspeth, Mayor Interim

ATTEST



Kim Miles, City Clerk