



City of Fort Wright

409 Kyles Lane | Fort Wright, KY 41011 | www.fortwright.com | 859.331.1700

City of Fort Wright Council Meeting Wednesday, November 3, 2021 – 6:00 PM

CALL TO ORDER

The Council Meeting was called to order at 6:00 PM by Mayor Dave Hatter. Mayor Hatter led the Pledge of Allegiance and a moment of silence. City Clerk Maura Russell called the roll.

| | |
|---------------------|---------|
| Councilman Abeln | Present |
| Councilman Feinauer | Present |
| Councilman Wall | Present |
| Councilman Weber | Present |
| Councilman Wessels | Present |
| Councilwoman Witt | Present |

Also present for the meeting were:

City Administrative Officer Jill Bailey
City Attorney Tim Theissen
Fire/EMS Chief Steve Schewe
Police Chief Ed Butler
Public Works Director Jeff Bethell
City Clerk Maura Russell

CITIZEN COMMENTS/GUESTS

[This item followed New Business]

Gail Michalack, 559 Beaumont Court – Ms. Michalack addressed Council, thanking them for the opportunity for the Hills of Kentucky Dulcimers to perform at the Food Truck Tuesday events this summer. She said those appearances led to additional performances and engagements, rebuilding their schedule after the pandemic.

Ms. Michalack also expressed that she hopes Battery Hooper Park will not be developed, as she believes a big draw for families to move to Fort Wright is opportunities for gathering. She gave suggestions for things she would like to see in the Park, including a walking path, better parking, and signage. Ms. Michalack thanked Mayor Hatter for his public apology issued after the meeting at which the James A. Ramage Civil War Museum was closed.

Mayor Hatter congratulated Ms. Michalack for 30 years of the Hills of Kentucky Dulcimer group and thanked her and the group for their entertainment. He also said there is no foreseeable plan to do anything other than improve Battery Hooper Park. Mayor Hatter said the City is still soliciting suggestions from residents on what they would like to see with the parks.

APPROVAL OF COUNCIL MINUTES

Councilman Weber made a motion to approve the minutes of the City Council Meeting held on Wednesday, October 6, 2021. Councilman Wall made a second. Ms. Russell called roll.

| | |
|---------------------|---------|
| Councilman Abeln | Abstain |
| Councilman Feinauer | Yes |
| Councilman Wall | Yes |
| Councilman Weber | Yes |
| Councilman Wessels | Yes |
| Councilwoman Witt | Yes |

MOTION CARRIED

UNFINISHED BUSINESS

2nd Reading Ordinance 14-2021 – Granting a Franchise to Cincinnati Bell – Mr. Theissen read Ordinance 14-2021, an Ordinance granting and issuing a competitive, non-exclusive franchise for a combined term of ten (10) years to, and authorizing the execution of the franchise agreement with, Cincinnati Bell Extended Territories LLC, its permitted successors or assigns, providing for the construction, erection, installation, upgrade, maintenance, repair and operation of a cable television system for the provision of cable television services in the City of Fort Wright, all upon the terms, conditions and covenants contained in the franchise agreement.

Councilman Wessels made a motion to approve Ordinance 14-2021. Councilman Feinauer made a second.

Mayor Hatter and Councilman Weber both thanked Tom Litzler for his work with this franchise agreement. Mayor Hatter said former Mayor Litzler has served on the Telecommunications Board of Northern Kentucky [TBNK] for a long time and has been instrumental in getting these franchise agreements taken care of so that the City can generate revenue from the companies using City rights-of-way for their infrastructure.

Ms. Russell called the roll.

| | |
|---------------------|-----|
| Councilman Abeln | Yes |
| Councilman Feinauer | Yes |
| Councilman Wall | Yes |
| Councilman Weber | Yes |
| Councilman Wessels | Yes |
| Councilwoman Witt | Yes |

MOTION CARRIED

Mayor Hatter requested an amendment to the agenda to include discussion about the recent Supreme Court ruling on the CERS [County Employee Retirement System] lawsuit and to add an Executive Session. Councilwoman Witt made a motion to amend the agenda to include discussion about the Supreme Court ruling and add an Executive Session. Councilman Wall made a second. Ms. Russell called the roll.

| | |
|---------------------|-----|
| Councilman Abeln | Yes |
| Councilman Feinauer | Yes |
| Councilman Wall | Yes |
| Councilman Weber | Yes |
| Councilman Wessels | Yes |
| Councilwoman Witt | Yes |

MOTION CARRIED

NEW BUSINESS

Luxury Car Dealership Development Proposal – Councilman Wessels recused himself from discussion of this item of business.

Shane Dever, Vice President, and Kevin Atwell, General Counsel, of Performance Automotive Group, and Mike Willenbrink of Bayer Becker, addressed Council regarding a luxury car dealership in Fort Wright. Mr. Dever said this project has been in the making for a long time and changes are still happening on the development, but the Performance Lexus dealership in Covington is now planning to move to a new facility in Fort Wright and will bring with it two more luxury franchises. Mayor Hatter clarified that this site is the old Dixie Drive-In site and has been in the works for development as a car dealership for almost 20 years.

Mr. Dever explained the layout of the site, including the main Lexus dealership building and a detailing building that would be at the rear of the property. There was discussion about materials being used, landscaping plans, and signage, with Mr. Dever explaining that the Lexus brand has guidelines to follow but Performance Automotive wants to work with the City to ensure everyone is happy with the look.

Ms. Bailey asked Mr. Dever to clarify if all the vehicles on the lot will be luxury. Mr. Dever said the Lexus store in Covington sells 60-75% of Lexus-branded vehicles, but the nicer used cars still sell in the \$12,000 to \$14,000 price point. He also said that the Lexus brand determines their new car sales numbers, and the pre-owned vehicles will be both certified and non-certified.

There was discussion about the current stage-one development plan. Mr. Theissen advised in 2002 the City amended the PO3 [Professional Office Building] zone to add luxury dealerships as a permitted use, with restrictions on service and sales areas and scale. He said the proposed drawings do not match with the current permitted use. Mr. Theissen also discussed the detailed development agreement from 2002, which involved the City, AutoManage [Performance Auto], and Wessels Construction and Development, saying there may need to be renegotiation to ensure all three parties agree to any changes that are made.

Mayor Hatter said there is still some homework to be done on this matter. He said he is not hearing any opposition, but the City needs to be sure the approach to dealing with this is correct. Mr. Atwell said he has put together some language for a text amendment and is happy to continue working with Council and the Wessels group to ensure this project moves forward.

Mayor Hatter suggested a work group be formed of Councilmembers who would work with Ms. Bailey and Mr. Theissen on this project. Councilman Abeln and Councilman Wall both expressed interest in participating.

[Citizen Comments followed the Luxury Car Dealership Discussion]

Devou Backcountry Trails – Jason Reser (Cincinnati Off Road Alliance) – Ms. Bailey said Mr. Reser was not able to attend the meeting this evening. Mayor Hatter gave some background, saying CORA has partnered with Devou Park to put in bike trails on both sides of Sleepy Hollow Road and they reached out to the City to inquire on using an 11-acre parcel of land that was donated to the City by the Wessels family. Councilman Wessels said there had been suggestions of doing a swap to give the City of Covington that parcel of land in exchange for some other equal land in the Glengarry area. Mayor Hatter suggested this idea be pitched again to Covington.

MO 06-21 – Approving Opioid Settlement Allocation Agreement – Mr. Theissen said a lawsuit has been pending for a longtime against various providers regarding opioids, and the City will be a beneficiary of a recent settlement. He said the City was contacted to join the lawsuit, but has not yet completed the process, and this Municipal Order will direct the Mayor and him to sign off for an allocation agreement. Mr. Theissen said the settlement share for the City would be approximately \$88,000.

Ms. Russell clarified that this Municipal Order should be number 07-2021. Mr. Theissen read Municipal Order 07-2021, a Municipal Order of the City Council of the City of Fort Wright in Kenton County, Kentucky, entering into an allocation agreement relating to funds from settlement of opioid legislation. He said this Municipal Order is specifically regarding the settlement proposal from Johnson & Johnson and the Distributors.

Mayor Hatter said over the last five to eight years the City has spent more than \$88,000 on the effects of the opioid crisis, so this settlement will not square up, but will be better than nothing. He said he sees no reason not to participate. Mr. Theissen added that this is the first of potentially two or three settlements with similar allocation formulas.

Councilman Abeln made a motion to approve Municipal Order 07-2021. Councilman Feinauer made a second. Ms. Russell called the roll.

| | |
|---------------------|-----|
| Councilman Abeln | Yes |
| Councilman Feinauer | Yes |
| Councilman Wall | Yes |
| Councilman Weber | Yes |
| Councilman Wessels | Yes |
| Councilwoman Witt | Yes |

MOTION CARRIED

Alcohol Beverage Control Licensing Policies and Fee Schedule – Ms. Bailey said this is a work-in-progress, but she did provide some documents to Councilmembers for their review. She said this will be back on the agenda in a few weeks. Councilman Wessels asked about fee changes. Ms. Bailey advised the fee changes would incorporate the state of Kentucky's fee schedule, which would allow the City to avoid creating a new Ordinance every time fees need to be updated. Ms. Bailey said a spreadsheet will be provided to Council to show changes.

Supreme Court of Kentucky – 2020-SC-0053-DG and 2020-SC-0477-DG - Mayor Hatter discussed the Kentucky Supreme Court ruling against the City of Fort Wright, and the other participating cities of Covington, Independence, and Taylor Mill, against the Board of Trustees of the Kentucky Retirement System [KRS] regarding the County Employees Retirement System [CERS]. He said Justice Michelle Keller concurred with the opinion but added a comment that she found value in the cities' arguments as they expressed concerns for the citizens of the Commonwealth.

Mayor Hatter thanked previous administrations and Councilmembers who supported the lawsuit, and the other cities who participated. He said it is disappointing but hopefully raised some level of influence from state leadership.

Mr. Theissen added that his firm, Strauss Troy, was the lead counsel for the lawsuit and picked up all costs along the way. He said this lawsuit has had a large influence on recent legislation and came at no cost to any participating city.

Ms. Bailey requested discussion about the vacant house that used to be home to the James A. Ramage Civil War Museum, saying there have been multiple bids received for demolition.

Councilman Abeln made a motion to amend the agenda to discuss and possibly accept bids for demolition of the house at Battery Hooper Park. Councilman Wessels made a second. Ms. Russell called the roll.

| | |
|---------------------|-----|
| Councilman Abeln | Yes |
| Councilman Feinauer | Yes |
| Councilman Wall | Yes |
| Councilman Weber | Yes |
| Councilman Wessels | Yes |
| Councilwoman Witt | Yes |

MOTION CARRIED

Ms. Bailey said three proposals have been received: JP Excavating for \$13,570; Taylor Brothers for \$24,963.40; and O'Rourke for \$37,660. She said there is currently no recommended use for the building and it is costing maintenance and security to keep it, therefore she is recommending demolition and that the City use the low-bid from JP Excavating.

There was discussion about the differences between the bids and exclusions the City may be required to handle. It was determined there are no concerns that the exclusions will cost the City any money.

Councilman Weber made a motion to accept the bid from JP Excavating. Councilman Abeln made a second. Ms. Russell called the roll.

| | |
|---------------------|-----|
| Councilman Abeln | Yes |
| Councilman Feinauer | Yes |
| Councilman Wall | Yes |
| Councilman Weber | Yes |
| Councilman Wessels | Yes |
| Councilwoman Witt | Yes |

MOTION CARRIED

COMMITTEE REPORTS

Community Improvement Committee – Chair Councilman Feinauer – Councilman Feinauer said the Committee met on October 20th. He said Councilwoman Witt and Mr. Bethell are working on the planting improvements for the Kyles Lane and Dixie Highway corner.

Finance Committee – Chair Councilman Wessels – Councilman Wessels turned the floor over to Councilman Weber. Councilman Weber said the spreadsheet should be in use by next year now that Ben Harrison [City's contract accountant/interim treasurer] understands the information.

Ms. Bailey said two investment accounts connected to the Capital Improvements Fund and the Dixie/Kyles TIF were switched from ICS sweep to regular checking because of lack of interest earning and high fees. She said there are no changes except for account numbers and Republic will be honoring a higher interest rate. Ms. Bailey added that Republic Bank actually reached out to the City regarding the lack of interest being earned on the accounts.

Councilman Weber added that the RedTree Invesmtnets report has been provided to Council for review.

DEPARTMENT REPORTS

Administration/Finance – Ms. Russell said she has been working with the payment software vendor to get ready for tax payments. She said tax statements will be in the mail next week. Ms. Russell said she has also been continuing to facilitate South Hills Civic Club rentals and working on the upcoming Employee Appreciation Lunch, which will be held on November 24th.

Ms. Bailey added that the tax bills will look a little different than years past but will also outline the additional payment options available to residents. Mayor Hatter said to be on the lookout for these statements and the deadline is December 31st at 5:00 PM and said payments can be made the following ways: in-person at the City Administration Building, the drop box outside the front doors; online with a credit card; or mailed using the envelope enclosed.

Fire/ALS Department – Chief Schewe discussed the movement of the Kenton County Fire Training Center from the site off Boron Drive. He said initially Rumpke was going to honor a lease for eight years, but recently expressed interest in getting the Fire Training Center out sooner and offered \$1 million toward a new facility. He said the Fire Chiefs Association voted to accept the offer and exit the property by March 2022, and there is discussion about where the new facility will be housed. Chief Schewe said he would keep Council informed as he learns more.

Legal Counsel – No report.

Police Department – Chief Butler said the Police Department is slightly short-staffed, but Officer Aaron Arnsperger has been cleared to return to regular duty next week and Officer Matt Betustak will graduate from the Academy in about six weeks. He said the application process is still moving along and he is hoping for a good applicant pool.

Chief Butler said the new look for the police cruisers is almost totally complete and on the streets. He also said the department is returning to more community-based policing, including assisting St. Agnes Elementary with a lockdown drill, and participating in a reading event at Fort Wright Elementary.

Councilwoman Witt thanked Chief Butler and the Police Department for their presence on Halloween.

Public Works – Mr. Bethell said the road projects are wrapping up and he is working through a punch list with the contractor. He said his team is working to winterize City property, including sprinklers and fountains, and prepping equipment for snow removal. Mr. Bethell said there is currently 250 tons of salt in stock for the City at the State barn and another 400 tons on order.

Chief Butler mentioned a traffic light situation in the City two weeks ago, and thanked Mr. Bethell and his team for their assistance. He said traffic lights were out in multiple locations on both sides of the City, and the Public Works Department was out assisting with traffic direction until lights were restored.

Mayor Hatter thanked residents for their patience with the road projects over the last couple of years, saying these projects have made huge improvements for the City. He thanked Mr. Bethell and his team for working with CT Consultants and he thanked Council for making the investment in the City, as roads are a significant amount of the budget.

SPECIAL ANNOUNCEMENTS

Employee Recognitions/Special Thank You's – Mayor Hatter acknowledged two Thank You notes to the Public Works Department. He also read a commendation from Sergeant Rob Griffin to Officer Thomas Bradford for a call at Doe Run Lake where he was able to locate a young woman who may not have survived if she had not been found by him.

COUNCIL COMMENTS

Councilman Feinauer – He reminded residents of the time change coming up on November 7th.

Mayor Hatter reminded residents of the St. Vincent de Paul coat drive, with a barrel being hosted in the City Administration Building lobby. He also announced the Tree Lighting Ceremony will take place on Saturday, December 4th, at 6:30 PM and Santa's Mailbox will return after Thanksgiving. He said Hoxworth will be back for a blood drive on January 13th. He announced the Highland Cemetery Veteran's Day Ceremony will take place on November 7th at 2pm, and said the City has participating in this ceremony for almost 10 years.

Mayor Hatter also reminded residents that the City is still hiring for a Treasurer position, along with a Police Officer, and asked residents to share the information to help spread the word.

EXECUTIVE SESSION

Councilman Wessels made a motion to adjourn to Executive Session under KRS 61.810(f), discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee,

member, or student without restricting that employee's, member's, or student's right to a public hearing if requested. Councilwoman Witt made a second. Ms. Russell called the roll.

| | |
|---------------------|-----|
| Councilman Abeln | Yes |
| Councilman Feinauer | Yes |
| Councilman Wall | Yes |
| Councilman Weber | Yes |
| Councilman Wessels | Yes |
| Councilwoman Witt | Yes |

MOTION CARRIED

The Council Meeting was adjourned to Executive Session at 7:54 PM.

The Council Meeting was reopened to the public at 8:50 PM.

ADJOURNMENT OF THE COUNCIL MEETING

Councilman Weber made a motion to adjourn the Council Meeting. Councilman Feinauer made a second. All voting in favor.

The Council Meeting adjourned at 8:51 PM.

Respectfully submitted,



Dave Hatter, Mayor

Attest:



Maura Russell
City Clerk