

## MINUTES OF MEETING HELD DECEMBER 12, 2005

The Common Council of the City of Somerset, Kentucky met in regular session on Monday, December 12, 2005 at 7:00 p.m. with the following present: Mayor JP Wiles. Council Members: Tim Rutherford, Joanne Norfleet, Clarence Floyd, Jerry Wheeldon, Mark Beasley, Jerry Girdler, Charlie New, Donna Hunley, John Minton, Jim Mitchell, Fonda Crawford, and Jerry Burnett. City Clerk David Godsey and City Attorney Joe Travis.

Mr. Beasley moved to approve the minutes of the last regular meeting held on November 28, 2005 and the minutes along with the reports to be approved as delivered. Mr. Burnett seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Rutherford, Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett.

Mrs. Crawford moved to approve all department bills. Mr. New seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Rutherford, Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett.

Second Reading was given the following Ordinance:

<p>ORDINANCE 05-16 AN ORDINANCE AMENDING ORDINANCE NO. 95-3 REGULATING THE USE, DESIGN, SIZE AND LOCATION OF SIGNS WITHIN THE CITY OF SOMERSET, KENTUCKY.</p> <p>SECTION 1100- INTENT</p> <p>The purpose of this Ordinance is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public right-of-ways, provide more open space, curb the deterioration of the natural environment and enhance community development.</p> <p>SECTION 1105-DEFINITION: Sign</p> <p>Any device designated to inform or attract the attention of persons not on the premises on which the sign is located.</p> <ol style="list-style-type: none"><li>1. Sign, On-Premise: Any sign related to a business or profession conducted, or a commodity or service sold or offered upon the premises where such sign is located.</li><li>2. Sign, Off-Premises: Any sign unrelated to the business or profession conducted, or to a commodity or service sold or offered upon the premises where such sign is located. Also, any sign used to display, advertise, or direct attention to any business, service or entertainment sold or offered at a location other than the premise on which the sign is located; commonly known as a billboard.</li><li>3. Sign, Illuminated: Any sign illuminated by electricity, gas, or other artificial lights including reflecting or phosphorescent light.</li><li>4. Sign, Indirectly Illuminated: Any sign designed to reflect artificial light from any source.</li></ol>	<ol style="list-style-type: none"><li>5. Sign, Non-Illuminated: Any sign which is not artificially lighted either directly or indirectly.</li><li>6. Sign, Lighting Device: Any light, string of lights, or group of lights located or arranged so as to cast illumination on a sign.</li><li>7. Sign, Mobile (Portable): Mobile signs are signs which are affixed to a frame having wheels and capable of being carried, or otherwise portable and designed to stand free from a building or other structure. Signs designed to be affixed to the surface of real estate shall be deemed free-standing signs, but the mere removal of wheels or temporary securing of a sign to the surface of real estate shall not prevent its being a mobile sign within this definition.</li><li>8. Sign, Projecting: Any sign which projects from the exterior of a building.</li><li>9. Billboard: An off-premise sign.</li></ol> <p>SECTION 1110-GOVERNMENTAL SIGNS EXCLUDED</p> <p>For the purpose of this ordinance, "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function, or required by any law, ordinance or governmental regulation.</p> <p>SECTION 1120-PROHIBITED AND GENERAL SIGN REQUIREMENTS</p> <p>The regulations contained in this section shall apply to all signs and all use districts. All signs shall require a building permit, except as in Section 1140.10 thru 1140.15.</p> <p>1120.10 In no case shall any sign be permitted to obstruct the view of traffic.</p> <p>1120.11 All wiring, fittings, and material used in construction, connection, and operation of electrical illuminated signs shall be in accordance with the provisions of the National Electric Code.</p> <p>1120.12</p> <p>2</p>
<p>Mobile or portable signs shall be permitted and used for a maximum of 60 days per calendar year and fee to be paid by permittee.</p> <p>1120.13 Off premise signs shall be prohibited in all zones.</p> <p>1120.14 No sign shall be attached to any tree or utility pole.</p> <p>1120.15 No sign shall be placed in any public right-of-way except public owned signs, such as traffic control and directional signs.</p> <p>1120.16 No sign of any classification shall be installed, erected, or attached in any form, shape or manner to a fire escape or any door or window giving access to any fire escape.</p> <p>1120.17 No sign erected or maintained in the window of a building, visible from any public or private street or highway, shall occupy more than twenty (20) percent of the window surface.</p> <p>1120.18 No political sign shall be posted in any place or in any manner that is destructive to public property upon posting or removal. All candidates for public office, their campaign committees or other persons responsible for the posting of campaign material shall remove such material within two (2) weeks following election day.</p> <p>1120.19 All signs which are attached to building shall be affixed in such a way that no part of the sign shall extend more than twenty-four (24) inches away from the surface of the building in any direction and shall be securely attached to said building, except for signs attached to a mansard roof which shall not extend more than twelve (12) inches above the parapet line of the building and the outermost horizontal point of the roof.</p> <p>1120.20 Not more than two (2) free standing signs (per premise) except corner business then one (1) per street face and one</p> <p>3</p>	<p>(1) wall mounted sign on the building (per business) shall be restricted to the same premises at which a business is located.</p> <p>1120.21 In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illuminating therefrom to be directed or beamed upon a public street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance nor shall any signs be erected or maintained which involve lighting or motion resembling traffic or directional signals or warnings or display words such as "stop" or "danger".</p> <p>1120.22 Signs located in the site triangle shall not be erected or placed in such a manner as to materially impede vision between a height of two and one-half (2 ½) and twelve (12) feet above the street center line grade.</p> <p>1120.23 A non-conforming sign shall not be moved to a new location on the building or lot, or enlarged or replaced unless it complies with the provisions of this Zoning Ordinance. With the exception of those signs which are prohibited, a legal non-conforming sign may continue in existence and shall be properly maintained in good condition but it shall not be:</p> <ol style="list-style-type: none"><li>1. Changed to another non-conforming sign;</li><li>2. Structurally altered (except to meet safety requirements) so as to prolong the life of the sign;</li><li>3. Altered so as to increase the degree of non-conformity of the sign;</li><li>4. Expanded or enlarged;</li><li>5. Re-established after its discontinuance of fifteen (15) days;</li><li>6. Continued in use after creation or change of the business or activity to which the sign pertains;</li><li>7. Moved to a new location on the building or lot, or</li></ol> <p>4</p>

<p>8. Re-established after substantial damage or destruction except by an act of God or vandalism at which time must be reviewed by the Planning Commission.</p> <p>For the purpose of the Ordinance, mobile or portable signs shall be regarded as personal property unattached to the real property on which they are placed and such signs are not structures and no non-conforming land use rights shall attach to them.</p> <p>1120.24 Discontinuance of Prohibited Signs-Any prohibited sign as defined in this ordinance shall be removed within twenty-four (24) hours of notification of prohibition.</p> <p>1120.25 All application for sign permits shall be accompanied by a drawing of the sign, indicating its dimensions and the location on the building or premises.</p> <p>SECTION 1130- MAINTENANCE</p> <p>1130.10 Any business sign now or hereafter existing which no longer advertises a bona fide business conducted or product sold on the premises, and any advertising sign now or hereafter existing which no longer advertises a bona fide business conducted or a product sold, activity or campaign being conducted shall be taken down and removed by the owner, agent or person having the beneficial use of the building structure, or lot upon which sign shall be found.</p> <p>1130.11 Outdoor advertising structures and surfaces shall be adequately maintained. Such maintenance shall include proper alignment, continued readability, and preservation of the structure with paint or other surface finishing material. If an outdoor advertising structure or surface is not maintained, it shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure, or lot upon which sign may be found.</p> <p>SECTION 1140- SIGNS PERMITTED IN ANY ZONE ('NO BUILDING PERMIT REQUIRED')</p> <p>1140.10</p>	<p>One (1) sign advertising the sale, lease, or rental of the premises upon which the sign is located shall not exceed twelve (12) square feet in size, except in all residential districts where the size of the sign shall be no more than six (6) square feet.</p> <p>1140.11 One (1) sign denoting the name and address of the occupants of the premises, not to exceed two (2) square feet in size, or in case of a farm or estate or residential community, not to exceed thirty-two (32) square feet.</p> <p>1140.12 Any official sign, or any information or direction sign or historic marker erected by a public agency.</p> <p>1140.13 Identification sign containing the names of various civic organizations.</p> <p>1140.14 Signs directing and guiding traffic and parking on private property, not exceeding two (2) square feet, and bearing no advertising matter shall be permitted, provided they are not within the right-of-way of any street.</p> <p>1140.15 One (1) business sign for a permitted home occupation; non-illuminated, not exceeding six (6) square feet in size. Professional name plates not to exceed (6) square feet in area.</p> <p>1140.16 The following temporary signs as noted:</p> <p>1140.16-1 The temporary on premises sign shall not be illuminated in any manner.</p> <p>1140.16-2 The area of each non-portable temporary sign shall be no greater than fifty (50) square feet nor more than fifteen (15) feet above ground.</p> <p>1140.16-3</p>
<p>A temporary sign permit and payment of fees shall be required for each temporary sign.</p> <p>1140.16-4 The sign must be located on the premises to which the advertisement, realties. This includes construction signs, and commercial real estates signs.</p> <p>1140.16-5 No more than two (2) temporary signs shall be allowed per premise.</p> <p>1140.16-6 Owner shall be responsible for notifying Enforcement Office of date of construction of sign. Enforcement Officer shall maintain record of all temporary signs. Owner shall remove signage within ten (10) days of end of total display period.</p> <p>1140.16-7 Temporary on-premises signs shall not be located within five (5) feet of dedicated rights-of-way nor within fifty (50) feet of all intersection streets right-of-way and meet all other setback requirements of the zone in which the sign is located.</p> <p>1140.16-8 The following shall be considered temporary on-premises signs:</p> <p>1140.16-8 (a)- Announcement Sign: Temporary sign announcing or relating to sales educational or religious organization. Total display period limited to maximum of sixty (60) calendar days per one (1) calendar year.</p> <p>1140.16-8(b)- Commercial Announcement Sign: Temporary sign that contains a message relating to construction work in progress or upcoming on-premises where sign is located including identification of persons or business engaged in the development or construction on-site. Total display period sixty (60) days plus construction.</p> <p>1140.16-8 (c)- Construction Sign: Temporary sign that contains a message relating to construction work in progress or upcoming on-premises where sign is located including identification of persons or</p>	<p>businesses engaged in the development or construction on site. Total display period sixty (60) days plus construction period.</p> <p>SECTION 1150-MEASUREMENT AND HEIGHT OF SIGN AREA</p> <p>The size of the sign shall be computed by multiplying the vertical length and horizontal length of the frame(s), however, said sign shall not exceed <del>thirty square feet</del> <u>thirty square feet</u>. Structural members not used for advertising shall not be included in computation of sign size. The height of the sign shall not exceed <del>60 feet</del> <u>from finished grade</u>.</p> <p>SECTION 1160-SIGN SETBACK REQUIREMENT</p> <p>Sign and outdoor advertising structures, where permitted, shall be setback from the establishment right-of-way line of any street or highway at least five (50) feet except for the following modifications:</p> <p>1160.10-Increased Setbacks For every square foot by which such sign or outdoor advertising structure exceeds fifty (50) square feet, the setback shall be increased by one-half (1/2) foot but need not exceed fifty (50) feet.</p> <p>1160.11-Setback s at the Intersection of Highways At the intersection of any state or federal highway with an arterial or collector street, the setback of any sign or outdoor advertising structure shall not be less than fifty (50) feet from the established right-of-way of each highway or street.</p> <p>SECTION 1170-SPECIAL YARD PROVISIONS</p> <p>Signs and advertising structures where permitted shall be erected or placed in conformity with the side and rear yard requirements of the district in which located except that no sign or advertising structure shall be erected or placed closer than fifty (50) feet of a side or rear lot line in any residential district.</p> <p>SECTION 1171-NO SIGNS IN EASEMENTS</p> <p>No sign will be allowed in any easement. (See section 1110).</p> <p>SECTION 1180-VIOLATIONS-SIGNS-PENALTIES</p>
<p>7</p>	<p>8</p>
<p>In case any sign shall be installed, erected, or maintained in violations of the Ordinance, the Enforcement Officer shall notify the owner, agent or person having beneficial use of the building structure or lot upon which sign maybe found in writing to alter such sign so as to comply with this Ordinance within twenty-four (24) hours. Upon failure to comply with such notice, within the time specified, the Enforcement office hereby authorized to cause removal or such sign, and any expense incident thereto shall be paid by the owner of the building structure, or lot to which signs are attached.</p> <p>EXCEPTION - Mobile signs shall be removed in six (6) months after the enactment of this ordinance.</p> <p>PENALTIES- Offenders are subject to a penalty of \$5.00 per day per sign until the sign is removed.</p> <p>SECTION 1190</p> <p>Any ordinance in conflict herewith is hereby repealed to the extent of said conflict.</p> <p>First Reading: _____</p> <p>Second Reading: _____</p> <p>MAYOR _____</p> <p>CLERK _____</p> <p>9</p>	

Mr. Burnett moved to approve the above Ordinance on its second reading. Mr. Wheeldon seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Rutherford, Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett.

Mr. Beasley moved to approve entering into a ten (10) year loan agreement with Cumberland Security Bank at 3.75 % interest for the water park. Mr. Mitchell seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Rutherford, Mr. Beasley, Mr. Girdler, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett. Voting "Nay": Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. New, and Mrs. Hunley. Motion was approved.

First reading was given the following Ordinance:

ORDINANCE 05-17

AN ORDINANCE CLOSING A STREET KNOWN AS EAST ELM STREET AND GILMORE STREET LOCATED IN THE CITY OF SOMERSET.

Mr. Beasley moved to approve the above Ordinance on its first reading. Mr. Burnett seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Rutherford, Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett.

Mr. Wheeldon motioned to delay the construction of the Water Park per the following letter presented by Mr. Wheeldon to the Council. Mr. Floyd seconded the motion. Upon roll call the following Council Members voted "Aye": Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. New, and Mrs. Hunley. Voting "Nay": Mr. Rutherford, Mr. Beasley, Mr. Girdler, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett. Motion was defeated.

I presented a list of items two weeks ago that every council person must have even if they choose not to read. However, as of today, other than a short call from the City Attorney, no information has been provided that deals with the questions raised and no legal opinion on any issue has been provided by the City Attorney. An Attorney General opinion has been requested on the deed and authority of city officials to award contracts. The Kentucky League of Cities, even though their own legal publication states that the City Council shall approve specifications and award contracts, has not responded in writing to a letter sent two weeks ago.

It is my understanding that, if the contracts for \$11-\$15 million signed by the Mayor but not awarded by City Council, is ruled to be not proper, then the contracts are voided and all of the payments made to the contractors for engineering, site work, and all activities may have to be paid back.

Also, contrary to what the paper mentioned, the Oakwood Intermodal Facility funding, as of last week, has not been awarded to the City of Somerset according to the U.S. Department of Transportation and the funds will only be available after a Grant Agreement is reached which may take 6 to 12 months. Therefore, the budget was revised in error and we cannot budget the funds not awarded for the current budget year. In 2003, the paper reported that the Mayor stated that the water park would never cost the citizens one penny except now we are borrowing up to \$11 million that will cost over \$15 million with debt and interest.

All of this action may lead the City of Somerset and each individual council person being liable for millions of dollars. Financial feasibility review is a requirement of city council members. The issues are basic local government activity and role of a city council.

I move that all construction be stopped for at least two weeks until the City Attorney or Attorney General provides written opinions that the contracts may be awarded by the Mayor without City Council approval and that it is legally permissible to budget funds not awarded and will not be received during the budget year in question. Without formal answers to these questions, we are not doing our job.

Mr. Girdler moved to amend the Fire/EMS budget in the amount of \$150,000. for the difference in the purchase of the new fire truck. Current budget amount for a truck is \$700,000. Purchase price is \$850,000 from Ferrara Fire Apparatus. Mr. New seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Rutherford, Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett.

## FIRE APPARATUS PROPOSAL

TO: Co. of Somerset Fire/EMS  
400 E. Mt. Vernon Street  
Somerset, Kentucky 42501

DATE: November 12, 2005

DEALER: Factory Direct-Kayla Hardwick

**GENTLEMEN:**

FERRARA FIRE APPARATUS, INC. HEREBY PROPOSES TO MANUFACTURE AND FURNISH YOU, SUBJECT TO YOUR ACCEPTANCE OF THIS PROPOSAL, AND THE PROPER SIGNED AND EXECUTION OF THE ATTACHED CONTRACT AND ADDENDUM(S) BY THE PARTIES THERETO, THE APPARATUS AND APPURTEANANCES HEREIN DESCRIBED AND FOR THE FOLLOWING PRICES LISTED BELOW. IN THE EVENT THE PURCHASER USES ITS OWN PURCHASE ORDER OR ITS OWN CONTRACT PAGES IN JEWEL OF SIGNING THE ATTACHED CONTRACT, IT SHALL BE UNDERSTOOD BY ALL PARTIES THAT ALL TERMS AND CONDITIONS OF THE ATTACHED CONTRACT AND ADDENDUM(S) SHALL TAKE PRECEDENCE OVER ANY AND ALL OTHER DOCUMENTS.

One (1) Ferrara Custom 100 Bear Mount Ladder Truck mounted on a 2006 Intero Chassis with all equipment as herein described in the specifications.

PRICE FOR APPARATUS:	\$ 888,911.00
LESS TRADE-IN:	\$ 40,000.00
TOTAL SELL PRICE:	\$ 848,911.00

FERRARA FIRE APPARATUS SHALL PROVIDE AT NO ADDITIONAL CHARGE A LCMER AERIAL APPARATUS UNTIL THE UNIT CAN BE COMPLETED AND DELIVERED.

NO FEDERAL, STATE, OR LOCAL TAXES ARE INCLUDED, UNLESS SUCH TAXES ARE ITEMIZED.  
DELIVERY: 270 CALENDAR DAYS F.O.B. Somerset, Kentucky

All apparatus and appliances shall be manufactured in accordance with the attached specifications, with the same specifications becoming a part of the contract. Delivery shall be made within the time specified below after receipt and acceptance by FERRARA FIRE APPARATUS, INC. of the properly signed and executed contract and addendum(s). The delivery time indicated is based on the best delivery knowledge available at this time. Delivery shall be contingent upon delays or failure to deliver from our suppliers, delays caused by or resulting from labor problems, chain of shortages, strikes, fire, flood, accidents, any other acts of God, or any other circumstances which are beyond the control of this corporation.

**TERMS OF PAYMENT:** All apparatus shall be paid NET UPON DELIVERY AND ACCEPTANCE. In the event equipment shortages that was bid to be included with the apparatus occur, the PURCHASER is to pay full purchase price less a 2% retainage for such shortages. Any amount deducted is then payable upon receipt and acceptance of such shortages.

ALL PRICES OR QUOTATIONS ARE SUBJECT TO CHANGE OR WITHDRAWAL UNLESS ACCEPTED WITHIN 30 DAYS FROM THE DATE HEREIN SET FORTH.

BY: CHRIS FERRARA

SEA:

1. d.

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DOMESTIC FILMS

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Mr. Beasley moved to approve the following Resolution entering into the Water Park Loan Agreement with Cumberland Security Bank. Mr. Mitchell seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Rutherford, Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett.

### RESOLUTION

Whereas, the City of Somerset, Kentucky has decided to build a waterpark, and

Whereas, to finance said waterpark the City has decided to borrow \$5,000,000.00 for construction of same, and

Whereas, the City has bid said loan to several financial institutions, and  
Whereas, a low bidder has been determined,

NOW THEREFORE, the Council of the City of Somerset, Kentucky  
resolves as follows:

1. To borrow the sum of \$5,000,000.00 for construction of a waterpark from Cumberland Security Bank at the rate of 3.75% over a 10 year period.
2. To pay interest monthly during construction with amortization of principal and interest upon completion of the project for the remainder of the life of the loan.
3. To secure a mortgage to secure said loan by pledging the waterpark property and waterpark proceeds.
4. To pay closing costs for said loan in the amount of \$9,704.00.
5. To comply with all reasonable requirements by Cumberland Security Bank for said loan.
6. To allow the Mayor of Somerset, Kentucky to execute all documents required by Cumberland Security Bank for said loan in accordance with the Resolution.

Approved by the City Council this \_\_\_\_ day of December, 2005.

WITNESS:

CITY CLERK

MAYOR, JP WILES

S:\apps\City\Waterpark\Resolution\2-13-05

Mrs. Crawford made a motion to go into executive session regarding a possible law suit. Mr. Rutherford seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Rutherford, Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett.

Following the executive session the following motion was made.

Mr. Floyd moved to allow the City Attorney to settle a law suit with K&K Construction and Howard K. Bell Engineering regarding the Sewer Plant in the amount of \$115,000. Mr. Burnett seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Rutherford, Mrs. Norfleet, Mr. Floyd, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mrs. Crawford, and Mr. Burnett.

There being no further business the meeting adjourned.

APPROVED \_\_\_\_\_  
MAYOR

ATTEST: \_\_\_\_\_  
CITY CLERK