

MINUTES OF MEETING HELD FEBRUARY 8, 2010

The Common Council of the City of Somerset, Kentucky met in a regular session on Monday, February 8, 2010, at 7:00 p.m. with the following present: Mayor Eddie Girdler. Council Members: Linda Stringer, Jerry Wheeldon, Steve Kelley, Jerry Girdler, Mike New, John Minton, Jim Mitchell, Pat Bourne, Jerry Burnett, Tim Rutherford, and Jim Rutherford. City Attorney Carrie Wiese and City Clerk David Godsey. Absent: Council Member Donna Hunley.

Mr. Bourne moved to approve the minutes of the regular meeting held on January 25, 2010, along with the reports as mailed. Mr. Kelley seconded the motion. Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. Girdler, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. T. Rutherford, and Mr. J. Rutherford.

Mr. Wheeldon moved to approve the following Floodplain Municipal Order. Mr. Bourne seconded the motion. Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. Girdler, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. T. Rutherford, and Mr. J. Rutherford.

<p style="text-align: center;">MUNICIPAL FLOODPLAIN ORDER</p> <p style="text-align: center;">MUNICIPAL ORDER OF THE CITY OF SOMERSET, KENTUCKY, REGARDING THE SERVICE OF FUTURE CUSTOMERS BUILDING STRUCTURES IN A DESIGNATED FLOODPLAIN.</p> <p>WHEREAS, the City Council (the "Council") of the City of Somerset, Kentucky (the "City"), is in the process of arranging to finance the construction of improvements to the existing water system (the "System") of the City; and</p> <p>WHEREAS, Rural Development of the Department of Agriculture of the United States of America ("RD") has agreed to purchase a bond issue of the City designated as "City of Somerset Water System Revenue Bonds, Series 2010" (the "Bonds"); and</p> <p>WHEREAS, RD has issued a Letter of Conditions to the City (the "Letter of Conditions") which sets forth the requirements the City must meet in order for the RD to purchase the Bonds; and</p> <p>WHEREAS, said Letter of Conditions requires the City to adopt an Order specifying that the City will deny water service to a future customer who builds a structure in a designated floodplain, or in the alternative, the customer must provide evidence and a justification for approval by the City and RD officials that there are no other alternatives to construction or development within the designated floodplain.</p> <p>NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOMERSET DOES ORDER AS FOLLOWS:</p> <p>Section 1. Floodplain Restriction. That pursuant to the Letter of Conditions, the City hereby agrees that it will deny water service to any future customer who builds a structure in a designated floodplain, or in the alternative, such customer must provide evidence and a justification for approval by the City and RD officials that there are no other alternatives to construction or development within the designated floodplain. The City must be a participant in the National Flood Insurance Program and the customer or developer must obtain the required permits prior to the tap-on restrictions being waived.</p> <p>Section 2. Severability. That if any clause, provision, paragraph or section of this Order be ruled void or unenforceable by any court of competent jurisdiction, the remainder thereof is intended to be adopted and shall be in full force and effect notwithstanding.</p> <p>Section 3. All Former Provisions in Conflict Repealed; Effective Date of Order. That all orders, motions or parts thereof, insofar as same may be in conflict herewith, are repealed, and this Order shall take effect from and after its passage and approval as provided by law.</p>	<p>Adopted and approved on this February 8, 2010.</p> <p style="text-align: right;">CITY OF SOMERSET, KENTUCKY</p> <p style="text-align: right;">_____ Mayor</p> <p>Attest:</p> <p style="text-align: center;">_____ City Clerk</p> <p style="text-align: center;">CERTIFICATE OF CITY CLERK</p> <p>I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Somerset, that the foregoing Order is a true copy of a Order duly adopted by the Council of said City at a meeting held on February 8, 2010 and that said Order appears as a matter of public record in the official records of said City.</p> <p>I further certify that said meeting was duly held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.825, that a quorum was present at said meeting, that said Order has not been modified, amended, revoked or repealed, and that same is now in full force and effect.</p> <p>IN WITNESS WHEREOF, I have hereto set my hand as City Clerk of the City and the official Seal of the City on this February 8, 2010.</p> <p style="text-align: right;">_____ City Clerk</p> <p>(Seal of City)</p>
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Mr. Mitchell moved to approve the following Legal Service Agreement-Bond Counsel and Legal Service Agreement-Local Counsel for the US Department of Agriculture, Rural Development bonds for new Water Plant. Mrs. Stringer seconded the motion. Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. Girdler, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. T. Rutherford, and Mr. J. Rutherford.

<p style="text-align: center;">LEGAL SERVICES AGREEMENT - LOCAL COUNSEL</p> <p>THIS AGREEMENT made and entered into this February 8, 2010, between the City of Somerset, Kentucky, party of the first part, (the "City") and Carrie D. Wiese, Esq., Attorney at Law, of Somerset, Kentucky, party of the second part, (the "Attorney").</p> <p style="text-align: center;">W I T N E S S E T H</p> <p>WHEREAS, the Attorney agrees to perform all customary services necessary to accomplish the financing of construction of extensions, additions and/or improvements to the existing water system of the City (the "System").</p> <p>NOW, THEREFORE, for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:</p> <p>Section A - Legal Services. That the Attorney will perform such services as are necessary to accomplish the above recited objectives including, but not limited to, the following:</p> <ol style="list-style-type: none">The legal preparation, supervision and assistance in the taking of all actions necessary or incidental when the City undertakes the financing of construction of extensions, additions and/or improvements to the System.Furnish local counsel advice and assistance to the governing body of the duly incorporated City in connection with: (a) Determining that the City has been properly created, is now validly in existence and that the officers have been properly installed for their current effective terms; (b) The notice for and conduct of meetings; (c) The preparation of minutes of meetings; (d) The preparation and enactment of such ordinances, orders and/or resolutions as may be necessary in connection with the authorization, financing, construction, purchasing and initial operation of the facility and/or equipment; (e) The completion and execution of documents for obtaining a loan made or insured by the United States of America, acting through the Rural Utilities Service, U. S. Department of Agriculture; (f) Entering into construction contracts; (g) Preparation of Bylaws, Rules and Regulations; and (h) Such other corporate action as may be necessary in connection with financing, construction, purchasing and initial operation of the facility and/or equipment.Review of construction contracts, purchase contracts, bid-letting procedure and surety and contractual bonds in connection therewith.Preparation, negotiation or review of contracts with cities or other sources, where it is necessary for an alternate source of water supply and/or sewage disposal services.Preparing, obtaining and reviewing deeds, easements and other right-of-way documents, and other instruments for sites necessary to the facility and to provide continuous rights-of-way therefor; rendering title opinions with reference thereto, and	<p>providing for the recordation thereof, prior to the project being advertised for construction bids.</p> <ol style="list-style-type: none">Obtain necessary permits and certificates from county and municipal bodies, from state regulatory agencies, and from other public and/or private sources with respect to the approval of the facility and/or equipment, the construction, purchase and operation thereof and pipeline and/or railroad crossings.Cooperate with the engineer employed by the City in connection with preparation of site sheets, easements and other necessary title documents, construction contracts, purchase and/or treatment contract agreements, health permits, construction permits and other instruments.Secure assistance of and cooperate with recognized bond counsel in the preparation of the documents necessary for the financing aspects of the facility and equipment. Where bond counsel is retained, the Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the City's obligations. <p>Section B - Compensation.</p> <ol style="list-style-type: none">City will pay to the Attorney for professional services rendered in accordance herewith, a fee based on the attached Schedule of Charges. The fees shall be paid in the manner and at the times set forth in the attached Schedule of Charges.The City will also bear the usual and necessary expenses of the financing, such as the actual cost of the sites, construction costs, recording fees, the cost of publishing the necessary portions of the proceedings, including the Notice of Bond Sale, and the cost of printing the bonds, and will also pay the separate fee of any bond counsel employed by the City. This does not include telephone calls, travel expenses, lodging and similar expenses incurred by the Attorney.The foregoing is based on the assumption that there will be no litigated opposition to the project and that such financing will involve only one issue of bonds. <p>Section C - Other Provisions. This Agreement can be cancelled upon written notice given by either party to the other at which time all accounts between the parties shall be promptly settled and accounted for.</p>																														
<p>IN TESTIMONY WHEREOF, witness the signature of the Attorney and the signature of the City acting by and through its Mayor and City Clerk, with the Seal of the City affixed hereto, pursuant to authorization of the City, duly adopted on February 8, 2010, as of the date first hereinabove written.</p> <p style="text-align: center;">CITY OF SOMERSET, KENTUCKY</p> <p>By _____ Mayor</p> <p>Attest:</p> <p>_____ City Clerk</p> <p>(Seal of City)</p> <p>RD Concurrence:</p> <p>By _____ Title _____ Date _____</p> <p style="text-align: center;">CARRIE D. WIESE, ESQ.</p>	<p style="text-align: center;">SCHEDULE OF CHARGES FEES FOR LEGAL SERVICES AS A PERCENTAGE OF PROJECT COST</p> <p>This attachment will be executed and made a part of the "Legal Services Agreement - Local Counsel," Form RD-KY 1780-11A.</p> <p>This schedule sets forth the maximum fee allowance for legal services provided by local counsel on projects financed in whole or part by Rural Development the "RD"). The City and Attorney may agree to a fee schedule in lesser amounts, if desired.</p> <p>When this schedule or a substitute schedule of lesser amount has been selected by the City and Attorney, this attachment will be executed by each party.</p> <p>Section 1. The City will pay to the Attorney for professional services rendered, fees in accordance with the following fee schedule:</p> <p>a. Basic Legal Fee - Based on percentage of project cost:</p> <table><thead><tr><th>Total Cost of Project Less Owner Contribution</th><th>Approved Fee</th></tr></thead><tbody><tr><td>\$ 0 to 25,000</td><td>1-1/2%</td></tr><tr><td>25,000 to 50,000</td><td>\$ 375.00 + 1-1/4% of amount in excess of \$25,000</td></tr><tr><td>50,000 to 100,000</td><td>\$ 687.50 + 7/8% of amount in excess of \$50,000</td></tr><tr><td>100,000 to 250,000</td><td>\$ 1,125.00 + 5/8% of amount in excess of \$100,000</td></tr><tr><td>250,000 to 500,000</td><td>\$ 2,062.50 + 3/8% of amount in excess of \$250,000</td></tr><tr><td>500,000 to 1,000,000</td><td>\$ 3,000.00 + 1/4% of amount in excess of \$500,000</td></tr><tr><td>1,000,000 to 5,000,000</td><td>\$ 4,250.00 + 1/8% of amount in excess of \$1,000,000</td></tr></tbody></table> <p>b. Additional Legal Fee - Based on number of private easements prepared, obtained and recorded. The owner shall be responsible for paying recording fees.</p> <table><tbody><tr><td>1 to 100 Easements</td><td>\$ 8.00 per easement</td></tr><tr><td>100 to 150 Easements</td><td>\$ 800.00 + \$7.75 per easement in excess of 100</td></tr><tr><td>150 to 250 Easements</td><td>\$ 1,187.50 + \$7.50 per easement in excess of 150</td></tr><tr><td>250 to 500 Easements</td><td>\$ 1,937.50 + \$7.25 per easement in excess of 250</td></tr><tr><td>500 to 750 Easements</td><td>\$ 3,750.00 + \$7.00 per easement in excess of 500</td></tr><tr><td>750 to 1000 Easements</td><td>\$ 5,500.00 + \$6.75 per easement in excess of 750</td></tr><tr><td>1000 to 1500 Easements</td><td>\$ 7,187.50 + \$6.50 per easement in excess of 1000</td></tr></tbody></table> <p>Section 2. Said Basic Legal Fees are to be paid as follows:</p> <p>a. If the loan is pre-closed:</p>	Total Cost of Project Less Owner Contribution	Approved Fee	\$ 0 to 25,000	1-1/2%	25,000 to 50,000	\$ 375.00 + 1-1/4% of amount in excess of \$25,000	50,000 to 100,000	\$ 687.50 + 7/8% of amount in excess of \$50,000	100,000 to 250,000	\$ 1,125.00 + 5/8% of amount in excess of \$100,000	250,000 to 500,000	\$ 2,062.50 + 3/8% of amount in excess of \$250,000	500,000 to 1,000,000	\$ 3,000.00 + 1/4% of amount in excess of \$500,000	1,000,000 to 5,000,000	\$ 4,250.00 + 1/8% of amount in excess of \$1,000,000	1 to 100 Easements	\$ 8.00 per easement	100 to 150 Easements	\$ 800.00 + \$7.75 per easement in excess of 100	150 to 250 Easements	\$ 1,187.50 + \$7.50 per easement in excess of 150	250 to 500 Easements	\$ 1,937.50 + \$7.25 per easement in excess of 250	500 to 750 Easements	\$ 3,750.00 + \$7.00 per easement in excess of 500	750 to 1000 Easements	\$ 5,500.00 + \$6.75 per easement in excess of 750	1000 to 1500 Easements	\$ 7,187.50 + \$6.50 per easement in excess of 1000
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<ol style="list-style-type: none">Fifty percent (50%) when all required services have been completed up to and through pre-closing of the loan, awarding of the contract, and issuance of work order.Thirty percent (30%) at final loan closing.Twenty percent (20%) when project is completed and accepted by the City and by RD. <p>b. If the loan is closed (with pre-closing being waived by RD):</p> <ol style="list-style-type: none">Seventy percent (70%) when all required services have been completed up to and through closing of the loan, awarding of the contract, and issuance of work order.Thirty percent (30%) when the project is completed and accepted by the City and by RD. <p>Section 3. Said Additional Legal Fees are to be paid as follows:</p> <p>A. If the loan is pre-closed:</p> <ol style="list-style-type: none">Seventy percent (70%) of amount at time of pre-closing.Twenty percent (20%) of amount at final loan closing.Ten percent (10%) of amount when project is completed and accepted by the City and by RD. <p>B. If the loan is closed (with pre-closing being waived by RD):</p> <ol style="list-style-type: none">Ninety percent (90%) of amount at final loan closing.Ten percent (10%) of amount when project is completed and accepted by the City and by RD.	<p>Section 4. This agreement is subject to the review and concurrence of the RD. Dated and approved this February 8, 2010.</p> <p style="text-align: center;">CITY OF SOMERSET, KENTUCKY</p> <p>By _____ Mayor</p> <p>Attest:</p> <p>_____ City Clerk</p> <p>RD Concurrence:</p> <p>By _____ Title _____ Date _____</p> <p style="text-align: center;">CARRIE D. WIESE, ESQ.</p>																														

Mr. Burnett moved to approve the following Resolution for maintenance and ownership of High Street turnaround. Mr. New seconded the motion. Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. Girdler, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. T. Rutherford, and Mr. J. Rutherford.

RESOLUTION

FOR MAINTENANCE AND OWNERSHIP

OF

HIGH STREET TURNAROUND

BE IT RESOLVED, that the City of Somerset agrees to accept ownership and maintain or cause to maintain the following facilities.

High Street Turnaround – From the junction with High Street (CS 1176) and extending east to the end of pavement, a distance of approximately 0.01 miles (See Exhibit "A.1").

The City of Somerset does hereby resolve and agree to accept the proposal and conditions set forth in this Resolution. We understand that Kentucky Transportation Cabinet Official Orders and quitclaim deeds will be issued for the assignments and transfers of maintenance responsibility and ownership interest of the facilities upon our acceptance of this agreement and at the completion of the aforementioned project.

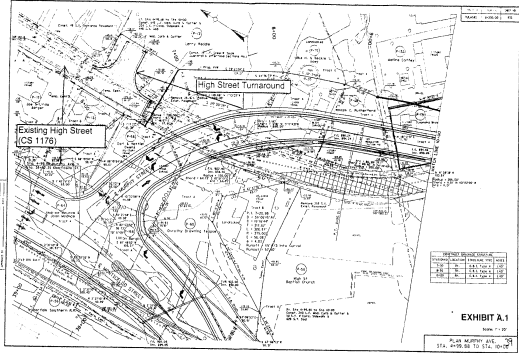
The foregoing Resolution was adopted as above set forth by majority roll call vote of all members of the City council present, a quorum being constituted and said Resolution has been duly made a permanent part of the minutes of the City Council.

This _____ day of _____, 2010.

Eddie Girdler - Mayor, City of Somerset

ATTEST: _____

1 of 1



Mr. Mitchell moved to approve the following Resolution in support of Downtown Somerset Development Corporation expanded streetscape banner program. Mr. Minton seconded the motion. Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. Girdler, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. T. Rutherford, and Mr. J. Rutherford.

RESOLUTION

WHEREAS the City of Somerset takes great pride in its history and culture and such are reflected in the architecture and tradition of our downtown; and

WHEREAS the City of Somerset was a pioneer in the redevelopment of its downtown business district and aided in the creation of Downtown Somerset Development Corporation in 1982; and

WHEREAS Downtown Somerset Development Corporation has served as a partner with the City of Somerset in preserving, developing and promoting our downtown community; and

WHEREAS Downtown Somerset Development Corporation is seeking funds to expand its streetscape banner program, enhancing the appearance of our community and expanding on one of its most popular programs;

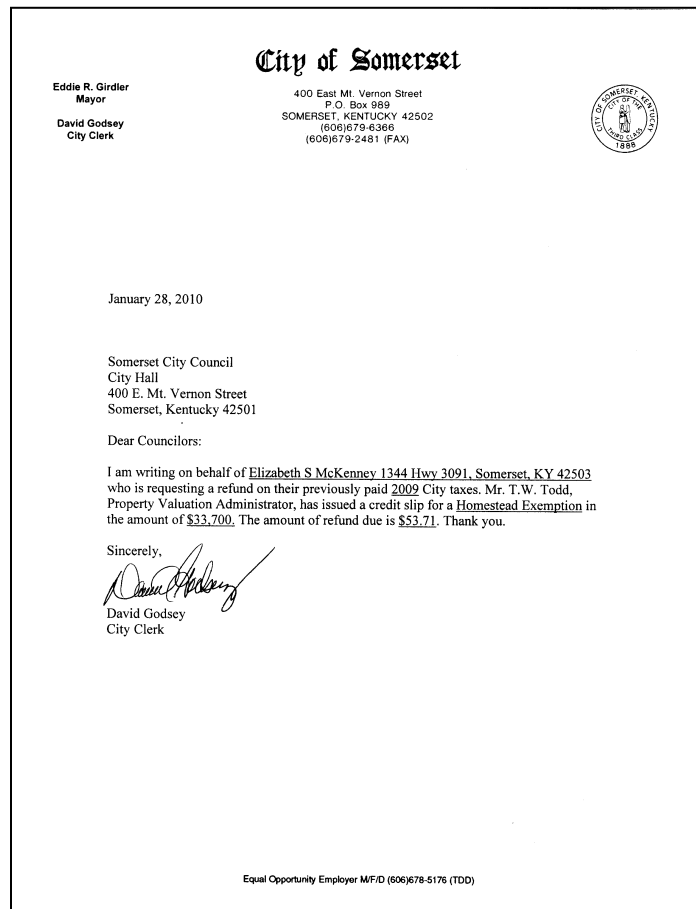
NOW THEREFORE BE IT RESOLVED by the Common Council of the City of Somerset that it endorses and encourages the expanded streetscape banner program being sought by Downtown Somerset Development Corporation and encourages its support from all concerned.

So Resolved this 8th day of February, 2010.

Edward R. Girdler
Mayor

David Godsey
City Clerk

Mr. Burnett moved to refund the following amounts paid on 2009 City taxes: Elizabeth S. McKenney in the amount of \$53.71 for a homestead exemption. Mr. Kelley seconded the motion. Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. Girdler, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. T. Rutherford, and Mr. J. Rutherford.



Mr. New moved to start all Council Meetings with silent prayer. Mr. Kelley seconded the motion. Upon roll call the following Council Members voted “Aye”: Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. Girdler, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. T. Rutherford, and Mr. J. Rutherford.

Mr. Kelley moved to approve City Offices to be closed on Presidents day one time only. Mr. Wheeldon seconded the motion. Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, and Mr. Burnett. Voting “Nay” Council Members Jerry Girdler and Tim Rutherford. Choosing to “Pass” Council Member Jim Rutherford. Motion Passed.

Mr. Minton moved that all concrete usage done from this point on will be bid for contract labor. Mr. Mitchell seconded the motion. Upon roll call the following Council Members voted “Aye”: Upon roll call the following Council Members voted “Aye”: Ms. Stringer, Mr. Wheeldon, Mr. Kelley, Mr. Girdler, Mr. New, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. T. Rutherford, and Mr. J. Rutherford.

There being no further business the meeting adjourned.

APPROVED _____
MAYOR

ATTEST: _____
CITY CLERK