

MINUTES OF MEETING HELD JANUARY 23, 2012

The Common Council of the City of Somerset, Kentucky met in a regular session on Monday, January 23, 2012 at 7:00 p.m. with the following present: Mayor Eddie Girdler. Council Members: Jim Rutherford, Linda Stringer, Jerry Wheeldon, Mark Beasley, Jerry Girdler, Mike New, Donna Hunley, John Minton, Jim Mitchell, Pat Bourne, Jerry Burnett, and Tom Eastham. City Attorney Carrie Wiese and City Clerk David Godsey.

Mr. Beasley moved to approve the minutes of the regular meeting held on January 9, 2012 along with the reports as mailed. Mr. Eastham seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, and Mr. Eastham.

Second reading was given the following Ordinance # 12-02:

<p>SUMMARY OF ORDINANCE NO. 12-02</p> <p>AN ORDINANCE TO THE CITY OF SOMERSET REGULATING SMOKING IN ALL WORKPLACES AND PUBLIC PLACES WITHIN CORPORATE LIMITS;</p> <p>WHEREAS, THE CITY DOES HEREBY FIND THAT: Per the U.S. Surgeon General: (1) secondhand smoke exposure causes disease and premature death in children and adults; (2) an increased risk for sudden infant death syndrome (SIDS), acute respiratory symptoms and problems, ear infections, asthma, and slow lung growth in children; (3) exposure to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to secondhand smoke; (5) establishing smoke free workplaces is the only effective way to ensure secondhand smoke exposure does not occur in the workplace because ventilation technologies cannot completely control exposure to secondhand smoke; and (6) peer-reviewed studies show that smoke free laws do not have an adverse economic impact on the hospitality industry.</p> <p>ACCORDINGLY, the City of Somerset finds and declares that the purpose of this ordinance is to protect the public health and welfare by regulating smoking in public places and places of employment.</p> <p>I. Definitions: The following terms are defined in the full Ordinance available to the public in the Clerk’s Office. Said definitions shall be used in the interpretation, application, and enforcement of this Ordinance.</p> <p>A. “Bar” B. “Business” C. “Employee” D. “Employer” E. “Enclosed Area” F. “Health Care Facility” G. “Place of Employment” H. “Private Club” I. “Public Place” J. “Restaurant” K. “Service Line” L. “Shopping Mall” M. “Smoking” N. “Sports Arena”</p> <p>II. All enclosed City facilities, buildings, and vehicles shall be subject to the provisions of this Ordinance.</p> <p>III. Smoking shall be prohibited in all enclosed public places within the City available and customarily used by the general public.</p> <p>1</p>	<p>IV. Smoking shall be prohibited in all enclosed facilities within places of employment including but not limited to commonly shared areas, private offices, and vehicles. This prohibition shall be communicated to all employees upon enactment, and to all prospective employees upon their application for employment.</p> <p>V. Smoking shall be prohibited in the following outdoor places:</p> <p>A. Within 10 feet of outside entrances, operable windows, and ventilation systems of enclosed areas. B. Outdoor seating or serving areas of restaurants and within 10 feet thereof. C. All outdoor arenas, stadiums, and amphitheatres, except in designated smoking areas which must be at least 10 feet from any seating areas, concession stands, bleachers, or grandstands. D. All public transit facilities and areas.</p> <p>VI. Notwithstanding any other provision, the following shall be exempt:</p> <p>A. Private residences, except when used as a childcare, adult day care, or health care facility. B. Not more than twenty percent (20%) of hotel and motel rooms rented and designated as smoking rooms, that any such rooms located on the same floor are contiguous, and that smoke from such rooms does not infiltrate into areas or rooms where smoking is prohibited. The status of rooms as smoking or nonsmoking cannot be changed other than adding nonsmoking rooms. C. Private clubs with no employees, except when open to the general public. Any organization that is established for the purpose of avoiding compliance hereunder is not exempt. D. Outdoor places areas of employment, except those covered by the provisions of the above sections.</p> <p>VII. Notwithstanding any other provision, an owner, operator, manager, or other person in control may declare an entire establishment nonsmoking upon posting a sign as set forth in this Ordinance.</p> <p>VIII. Posting of Signs</p> <p>A. “No Smoking” signs, or the “No Smoking” symbol, shall be posted in every public place and place of employment where smoking is prohibited by this Ordinance. B. Every public place and place of employment where smoking is prohibited shall post such a sign at every entrance, and in every vehicle that constitutes a place of employment that shall be visible from the exterior of the vehicle. C. All ashtrays shall be removed where smoking is prohibited by the owner, operator, manager, or other person having control.</p> <p>IX. Non-Retaliation; Non-Waiver of Rights</p> <p>No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that person exercises rights set forth in this Ordinance. Violations of this section shall be a Misdemeanor, punishable by a fine not to exceed \$1000 for each violation. An employee who works where smoking is</p> <p>2</p>
<p>allowed does not waive or otherwise surrender any legal rights against the employer or any other party.</p> <p>X. Enforcement</p> <p>A. This Ordinance shall be enforced by the City. B. Notice of this Ordinance shall be given to all applicants for a business license in the City. C. Any citizen who desires to make a complaint under this Ordinance may do so with the Somerset Police Department (SPD). D. Agencies that conduct mandated inspections shall inspect for compliance with this Ordinance while conducting their inspection and shall report violations to the City. E. An owner, manager, operator, or employee of an establishment shall inform persons who are violating this Ordinance. F. Notwithstanding any other provision, an employee or private citizen may bring legal action to enforce this Ordinance. G. In addition to the remedies of this Section, the City, or any person aggrieved by failure of an owner, operator, manager, or other person in control to comply with this Ordinance, may apply for injunctive relief in court.</p> <p>XI. Violations and Penalties</p> <p>A. A person who smokes in an area where smoking is prohibited by this Ordinance shall be guilty of a violation, punishable by a fine not exceeding fifty dollars (\$50). B. Except as otherwise provided in this Ordinance, a person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with this Ordinance shall be guilty of a violation, punishable by:</p> <p>1. A fine not exceeding one hundred dollars (\$100) for a first violation. 2. A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year. 3. A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.</p> <p>C. In addition to the fines established by this Section, violation of this Ordinance by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred. D. Violation of this Ordinance is hereby declared to be a public nuisance which may be abated by the City by restraining order, preliminary and permanent injunction, or other means provided for by law, and the City may take action to recover the costs of the nuisance abatement. E. Each day on which a violation occurs shall be considered a separate and distinct violation.</p> <p>XII. The City shall engage in educational efforts and aid for citizens, owners, operators, and managers regarding compliance.</p> <p>XIII. The City shall annually request other government and education agencies within the City to establish procedures for compliance, and to update existing smoking regulations as needed.</p> <p>3</p>	<p>XIV. This Ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.</p> <p>XV. This Ordinance shall be liberally construed so as to further its purposes.</p> <p>XVI. If any part of this Ordinance, or application to any person or circumstances, shall be held invalid, that shall not affect the other provisions and to this end the provisions of this Ordinance are declared to be severable.</p> <p>XVII. This Ordinance shall be in full force and effect upon adoption and publication according to law, with a ninety (90) day compliance period to begin on the date of publication. Thereafter, this Ordinance shall be enforced against those violating the Ordinance.</p> <p>FIRST READING January 9, 2012 SECOND READING January 23, 2012</p> <p>APPROVED: Mayor, Eddie Girdler</p> <p>ATTEST: City Clerk, David Godsey</p> <p>4</p>

- A complete copy of this Ordinance is on file in the City Clerk’s Office.

Mr. Wheeldon moved to approve the above Ordinance No. 12-02 on its second reading regarding the smoking ban. Mr. Eastham seconded the motion. Upon roll call the following Council Members voted “Aye”: Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, and Mr. Eastham. Voting “Nay”: Mr. Rutherford. Motion Passed.

Second reading was given the following Ordinance # 12-01:

<p style="text-align: center;"><b>NOTICE OF ADOPTION AND SUMMARY OF BOND ORDINANCE # 12-01</b></p> <p>Notice is hereby given that an ordinance entitled and summarized as follows was adopted by the City Council of the City of Somerset, Kentucky, on January 23, 2012.</p> <p style="text-align: center;">I. TITLE</p> <p>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOMERSET, KENTUCKY, AUTHORIZING AND APPROVING THE ISSUANCE OF ITS GENERAL OBLIGATION REFUNDING BONDS, SERIES OF 2012 IN THE APPROXIMATE AMOUNT OF \$2,640,000 (WHICH AMOUNT MAY BE INCREASED OR DECREASED BY UP TO \$260,000) FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF CERTAIN OUTSTANDING INDEBTEDNESS, AUTHORIZING THE LEVY OF A DIRECT ANNUAL TAX ON ALL TAXABLE PROPERTY WITHIN THE CITY, IN ADDITION TO ALL OTHER TAXES, IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS WHEN AND AS THE SAME BECOME DUE; AUTHORIZING THE ESTABLISHMENT OF CERTAIN FUNDS TO PROVIDE FOR THE COLLECTION OF THE PROCEEDS OF THE TAX AND THE PAYMENT OF THE BONDS; AUTHORIZING THE PUBLICLY ADVERTISED, COMPETITIVE SALE OF SAID BONDS AND THE DISBURSEMENT OF THE PROCEEDS THEREOF; AND TAKING OTHER RELATED ACTION.</p> <p style="text-align: center;">II. SUMMARY</p> <p>The ordinance entitled as above:</p> <p>A. authorizes the issuance by the City, pursuant to the General Provisions on Bonded Debt for Local Government, KRS 66.011 to 66.191 (the "Act"), from time to time and in one or more series, the City's general obligation bonds (the "Bonds") for any purpose or purposes authorized under the Act and to the payment of which the full faith and credit of the City are pledged.</p> <p>B. provides that the City shall levy in each fiscal year ad valorem taxes without limit as to rate or amount and sufficient in amount, and shall appropriate therefrom in its budget for each fiscal year a sufficient amount, to pay the debt service due on all Bonds outstanding thereunder, to the extent other revenues of the City are not appropriated and used for such purpose.</p> <p>C. authorizes the issuance by the City of its General Obligation Refunding Bonds, Series of 2012 for the purpose of currently refunding all or a portion of the City's outstanding obligations incurred in connection with its Water System Revenue Bonds, Series B of 1998, dated as of December 1, 1998.</p>	<p>D. authorizes the Mayor, the City Clerk, and other appropriate officers of the City to execute further instruments and take other actions necessary or desirable for the issuance of the Bonds and effectuating the ordinance.</p> <p>A copy of the full text of the ordinance is available for public inspection in the office of the City Clerk, City Hall, 400 East Mount Vernon Street, Somerset, Kentucky.</p> <p style="text-align: right;">/s/ David Godsey City Clerk City of Somerset, Kentucky</p> <p>60120682.2</p> <p style="text-align: center;">2</p>
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- A complete copy of the above Ordinance is on file in the City Clerk’s Office.

Mr. Wheeldon moved to approve the above Ordinance No. 12-01 on its second reading regarding Water Bonds. Mr. Burnett seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, and Mr. Eastham.

Second reading was given the following Ordinance # 12-03:

ORDINANCE NO. 12 - 03

AN ORDINANCE ANNEXING WITH THE CONSENT OF THE PROPERTY OWNER, THE CITY OF SOMERSET, A BOUNDARY OF REAL ESTATE TO THE CITY KNOWN AS THE SOMERSET WATER TREATMENT PLANT LOCATED AT THE OLD MONTICELLO ROAD, KENTUCKY HIGHWAY 2301, WAITSBORO DRIVE, AND SOUTH US 27 FROM THE STATE RIGHT OF WAY;

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOMERSET, KENTUCKY;

That the City of Somerset Kentucky does hereby annex to the City of Somerset, Kentucky, pursuant to KRS 81A.410, the following boundary of unincorporated territory which is adjacent to property now contained in the City limits, and is urban in character or its territory that is suitable for urban development without unreasonable delay:

A certain tract or parcel of land located and being in Pulaski County, State of Kentucky, and more fully described as follows, to wit:

(See Exhibit "A" containing the meets and bounds of the above referred to property, attached hereto and incorporated herein in full by reference).


FIRST READING: JANUARY 9, 2012

SECOND READING: \_\_\_\_\_

APPROVED: \_\_\_\_\_

MAYOR

CITY CLERK



Mr. Wheeldon moved to approve the above Ordinance No. 12-03 on its second reading regarding the annexation of Water Plant Property. Mr. New seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, and Mr. Eastham.

First reading was given the following Ordinance # 12-04:

ORDINANCE NO. 12-04

AN ORDINANCE TO THE CITY OF SOMERSET, KENTUCKY, AMENDING THE CITY’S MOST CURRENT PERSONNEL PAY AND CLASSIFICATION PLAN AS ADOPTED AND/OR AMENDED IN ORDINANCES # 10-06 AND # 11-01, AND PURSUANT TO KRS 83A.070, WHICH REQUIRES THAT SUCH A PLAN BE ADOPTED AND AMENDED ONLY BY ORDINANCE.

First reading was given the following Ordinance # 12-05:

ORDINANCE NO. 12-05

AN ORDINANCE AMENDING THE CITY OF SOMERSET, KENTUCKY ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2011 AND ENDING JUNE 30, 2012 ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS OF THE CITY OF SOMERSET, KENTUCKY.

Mr. Wheeldon moved to refund the following amounts paid on 2010 City taxes to Emma Marshall in the amount of \$48.04, and 2011 City taxes in the amount of \$43.75. Mr. Bourne seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mr. Bourne, Mr. Burnett, and Mr. Eastham.

There being no further business the meeting adjourned.

APPROVED: \_\_\_\_\_

MAYOR

ATTEST: \_\_\_\_\_

CITY CLERK