

MINUTES OF MEETING HELD JULY 27, 2020

The Common Council of the City of Somerset, Kentucky met in a regular meeting on Monday July 27, 2020 at 6:00 p.m. with the following present: Council Members; David Burdine, Brian Dalton, Jerry Wheeldon, Jimmy Eastham, Jerry Girdler, Donna Hunley, John Minton, Jim Mitchell, David Godsey, Amanda Bullock, Tom Eastham, Mayor Alan Keck, City Attorney John Adams, and City Clerk Nick Bradley.



Mr. Wheeldon moved to approve the minutes of the regular meeting held on July 13, 2020 along with reports as mailed. Mr. Dalton seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Burdine, Mr. Dalton, Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mr. Godsey, Ms. Bullock, and Mr. T. Eastham.

Mr. Mike New submitted the following resignation of office to the City Clerk and shown here for an official record.



Mr. Mitchell made a motion to approve the following Ordinance Number 20-13: Causing the Transfer of Property, 84 Kentucky Highway 914, Ferguson Kentucky from within the City of Ferguson Boundaries to within the City of Somerset Boundaries via KRS 81.500 and the Findings Pursuant to KRS 81.500. Mr. Dalton seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Burdine, Mr. Dalton, Mr. Wheeldon, Mr. J.

Eastham, Mr. Girdler, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mr. Godsey, Ms. Bullock, and Mr. T. Eastham.

<p>City of Somerset, Kentucky</p> <p>Ordinance 20-13</p> <p>An ordinance causing the transfer of property, 84 Kentucky Highway 914, Ferguson, Kentucky from within the City of Ferguson boundaries to within the City of Somerset boundaries via KRS 81.500 and the findings of fact pursuant to KRS 81.500.</p> <p>Whereas the City of Ferguson and the City of Somerset, Kentucky have adjoining boundaries;</p> <p>Whereas the City of Somerset has purchased in December 2019 the former 84 Lumber facility lying south of Kentucky Highway 914 and east of the Norfolk Southern Railroad;</p> <p>Whereas said property is legally defined by the metes and bounds description found in Exhibit A, and being all of Parcel's A, C, & D of Plat Cabinet C Slide 550 of record in the Pulaski County Clerk's Office;</p> <p>Whereas there are no residents living on or in the property herein described;</p> <p>Whereas part of said property appears to be currently annexed into the corporate boundaries of Ferguson, Kentucky;</p> <p>Whereas said property is currently zoned Commercial Industrial, and would be best categorized for use under City of Somerset Zoning Ordinance as I-2;</p> <p>Whereas both the City of Ferguson and the City of Somerset agree that under the City of Somerset title and ownership, no property taxes would be paid to the City of Ferguson, and there be no taxes due and owing on the property to the City of Ferguson, transferring the property would be "revenue neutral" (after December 2019) to the City of Ferguson;</p> <p>Whereas the intent of this Ordinance is the "Transfer of Incorporated Areas between Cities of the Home Rule Class" by KRS 81.500;</p> <p>Whereas the City of Somerset agrees to pay all transaction and notice costs associated with this "transfer of property" under KRS 81.500;</p> <p>Now therefore be it ordained by the City Council of City of Somerset:</p> <ol style="list-style-type: none">A. the Council finds pursuant to KRS 81.500:<ol style="list-style-type: none">1. City of Ferguson and City of Somerset have adjoining boundaries;2. The property to be transferred, the former 84 Lumber facility, is properly defined in Exhibit A and the record to plat and survey in the Pulaski County Clerk's office above;3. The financial considerations between City of Ferguson and City of Somerset are properly stated in the above recitals. All tax and revenue issues have been resolved;4. The property would be properly zoned I-2 by the City of Somerset under its Zoning Ordinance;5. There are no voters or residents residing on the herein described property;B. The property having met all the requirements of KRS 81.500, is by this Ordinance transferred from the City of Ferguson to the City of Somerset's incorporated boundary as being in the City of Somerset;	<p>First Reading July 13, 2020. Second Reading date July 27, 2020. Successful passage after the Second reading and on the same date. As proven by the executive signature and attestation.</p> <p> Alan Ford Mayor of Somerset, Kentucky</p> <p> Attested by Nick Bradley Clerk of Somerset, Kentucky</p>
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First Reading was given the following Ordinance Number 20-14: Zone Change of 409 Monticello Street from R-2 to B-2.

ORDINANCE NO. 20-19

AN ORDINANCE AMENDING ORDINANCE NO. 00-18, KNOWN AS THE CITY'S ZONING ORDINANCE, AND ALTERING THE ZONING MAP TO REFLECT SAID AMENDMENT, BASED ON THE FINDINGS OF FACT MADE BY THE PLANNING AND ZONING BOARD, AND BASED ON SAID BOARD'S RECOMMENDATION OF A ZONE CHANGE;

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

That Ordinance No. 00-18 known as the Zoning Ordinance, Somerset, Kentucky, is hereby amended by altering the Zoning Map in the following manner:

- I. By changing a boundary of land presently zoned R-2 to B-2, said properties being more particularly described in Exhibit "A" attached hereto and incorporated herein in full by reference, located at 409 Monticello Street, Somerset, Kentucky, and having PVA Parcel # 061-6-1-16.
- II. The City Clerk of the City of Somerset, Kentucky is hereby authorized to alter the Zoning Map to reflect said changes.
- III. This Ordinance shall be in full force and effect from and after adoption and publication according to law.

FIRST READING: **JUN 27, 2020**

SECOND READING: _____

Approved: _____
Mayor

Attest: _____
City Clerk

Page 7 ZC



**FINDINGS OF FACT AND RECOMMENDATIONS OF THE CITY OF SOMERSET
PLANNING & ZONING COMMISSION**

OWNER: **JOHN G. PRATHER, JR., JEROME PRATHER, JOEL PRATHER**
ADDRESS: **409 Monticello Street**
PARCEL #: **061-6-1-16**

On **JULY 9th, 2020** the Planning & Zoning Commission of the City of Somerset convened for a regularly scheduled / special-called meeting and noticed hearing and at such meeting made findings of fact as to the property described in the plat and zone change application attached hereto and incorporated herein in full by reference.

The Planning & Zoning Commission believes that the recommendation as set forth below **IS** proper according to law and **MEETS** the requirements for a zone change from **R-2** to **B-2** due to the following findings of fact:

DUE TO MAJOR CHANGES OF A PHYSICAL AND ECONOMIC NATURE WITHIN THE AREA WHICH WERE NOT ANTICIPATED IN THE ADOPTED COMPREHENSIVE PLAN AND WHICH HAVE SUBSTANTIALLY ALTERED THE BASIC CHARACTER OF SUCH AREA FOR PROPERTY LOCATED AT 409 MONTICELLO STREET, THE PRESENT ZONING (R-2) IS INAPPROPRIATE AND THE PROPOSED ZONING (B-2) IS MORE APPROPRIATE FOR THE PROPERTY.

WHEREFORE, the Planning & Zoning Commission via a majority vote agree to **RECOMMEND** to the Common Council of the City of Somerset that the subject property be re-zoned from **R-2** to **B-2** based on the above findings of fact.

Administrative Official
Administrative Official

Chairman, Planning & Zoning Commission
Chairman, Planning & Zoning Commission

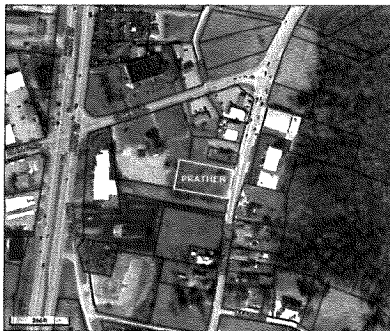
Counsel for Planning & Zoning Commission
(Sign only if legal assistance was sought by the Commission)

DISCLAIMER
This form was prepared by the City Attorney for administrative purposes only. All findings and/or recommendations stated on this form shall be written in the space provided by the Chairman of the Commission, or other authorized person(s), and are solely the decision of the Planning & Zoning Commission as permitted under the authority of an applicable law.

EXHIBIT "A"

John Adams, City Attorney

qPublic.net Pulaski County, KY PVA



Parcel ID: 061-6-1-16
Owner: **WOGG DONNA KIAN**
Address: **409 PRATHER JOHN G JR & HOLMANS & JEROME**
Towing: **22**
Status: **22**
Acres: **0.68**
Physical Address: **409 MONTICELLO ST**
City: **SOMERSET KY 40502**
Block: **10**
Tax Description: **TO E PRATHER & STEWART BNDRY SUR AB AL**
Date created: 7/20/20
Last Date Updated: 7/20/20 15:34:51
Developer:

Mr. Burdine made a motion to accept the procedure set forth in the following by City Attorney John Adams. Ms. Bullock seconded the motion.



John B. Adams
City Attorney

July 22, 2020

Dear Council:

As stated in the K16 summary I sent previously, there is no statutory procedure for filling a Council Vacancy by the Council. I am not aware of any Ordinance on the subject. Still, the resulting procedure must be proper, fair, and subject to procedural norms (procedural due process). The matter of procedure should be settled by a motion and vote before the vacancy is filled. And there are some statutory requirements, such as the Mayor does not break a tie (it is a purely legislative matter), and votes must be public (not secret ballots).

Let me make this suggestion for a procedure which would be enacted by a motion and vote of the Council:

1. The Council by a motion and second, nominates a candidate or multiple candidates. At this time the Mayor can make his preference (not a nomination or appointment) known if he chooses.
2. The Council votes by stating yes or no if there is one candidate. Or by stating the name if there are multiple candidates. Highest vote gets the vacancy.
3. In the case of a tie of multiple candidates receiving highest number of votes:
 - a. There will be an immediate "run-off" vote at the same meeting if there are fewer tied candidates than all candidates in the election. (For example, there are 3 candidates and 2 candidates got 4 votes each and one got 3 votes, then you would immediately vote on the 2 candidates who got 4 votes.)
 - b. If there is a tie of all the candidates (for example 2 candidates and each get the equal number of votes because of an abstention or absent member) there would be a "re-vote" limited to the tied candidates at the next Council meeting. The winner of that re-vote fills the vacancy. If there is another tie in the re-vote, the Council shall decide by motion to either 1. decide "by lot" (following KRS 118.42(6)), or 2. declare the Council "deadlocked" and send the matter to the Governor for his selection by resolution.

Again, this is a procedural suggestion, if you want to do it differently then please establish your procedure before trying to decide who fills the vacancy.

Sincerely,

John Adams

Mr. Mitchell made a motion to nominate James Daughetee to fill Mike New's City Council vacancy. Mr. Minton seconded the motion.

Mr. Dalton made a motion to nominate Kevin Slone to fill Mike New's City Council vacancy. Mr. Girdler seconded the motion.

Upon roll call the following Council Members voted for James Daughetee: Mr. Wheeldon, Mr. Minton, Mr. Mitchell, Mr. T. Eastham and for Kevin Slone: Mr. Burdine, Mr. Dalton, Mr. J. Eastham, Mr. Girdler, Mrs. Hunley, Mr. Godsey, Ms. Bullock. With a count of 4 votes for Mr. Daughetee and 7 votes for Mr. Sloan, Mr. Kevin Slone will fill Mr. Mike New's City Council vacancy.

Mr. Godsey made a motion to approve a refund for property taxes to Richard Krause and Ruth & Peter Wronikowski for a Homestead Exemption in the amount of \$51.09. Mr. T. Eastham seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Burdine, Mr. Dalton, Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mrs. Hunley, Mr. Minton, Mr. Mitchell, Mr. Godsey, Ms. Bullock, and Mr. T. Eastham.

There being no further business the meeting adjourned at 6:48 p.m.

APPROVED: 

MAYOR

ATTEST:  _____
CITY CLERK