

MINUTES OF MEETING HELD SEPTEMBER 26, 2011

The Common Council of the City of Somerset, Kentucky met in a regular session on Monday, September 26, 2011 at 7:00 p.m. with the following present: Council Members: Jim Mitchell, Pat Bourne, Jerry Burnett, Tom Eastham, Jim Rutherford, Linda Stringer, Jerry Wheeldon, Mark Beasley, Jerry Girdler, Mike New, Donna Hunley, and John Minton. City Attorney Carrie Wiese and City Clerk David Godsey.

Mr. New moved to approve the minutes of the regular meeting held on September 12, 2011, along with the reports as mailed. Mr. Eastham seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

Mr. Burnett moved to approve the request from the Somerset Cross Country Coaches to build a 3.1 mile tract at Somerspash Water Park. Mr. Beasley seconded the seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

Mr. Beasley moved to table the motion to correct the redistricting of City Wards before the reading of Ordinance # 11-16. Mr. Mitchell seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

Second reading was given the following Ordinance # 11-13:

NOTICE OF ENACTMENT AND SUMMARY OF ORDINANCE NO. 11-13

ORDINANCE OF THE CITY OF SOMERSET, KENTUCKY, AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SALE OF \$14,000,000 PRINCIPAL AMOUNT OF CITY OF SOMERSET WATER SYSTEM REVENUE BONDS, SERIES 2012, CONSISTING OF \$9,000,000 OF SERIES A BONDS AND \$5,000,000 OF SERIES B BONDS, FOR THE PURPOSE OF FINANCING THE COST (NOT OTHERWISE PROVIDED) OF THE CONSTRUCTION OF EXTENSION, ADDITIONS AND IMPROVEMENT TO THE EXISTING WATER SYSTEM OF SAID CITY; SETTING FORTH TERMS AND CONDITIONS UPON WHICH SAID BONDS MAY BE ISSUED AND OUTSTANDING; PROVIDING FOR THE COLLECTION, SEGREGATION AND DISTRIBUTION OF THE REVENUES OF SAID WATER SYSTEM; AND PROVIDING FOR AN ADVERTISED, PUBLIC, COMPETITIVE SALE OF SAID BONDS.

As required by KRS 83A.060(9), I hereby certify that an Ordinance bearing the above title was given first reading (by Title and Summary) by the City Council of the City of Somerset Kentucky, at a duly convened meeting of said City Council held on September 12, 2011, and was given second reading (by Title and Summary) and enacted by said City Council at a duly convened meeting held on September 26, 2011, and that the following is a Summary of such Ordinance prepared by W. Randall Jones, of the firm of Rubin & Hays, Attorneys at Law, Louisville, Kentucky. (Signed W. Randall Jones)

SUMMARY OF ORDINANCE

Said Ordinance authorizes the issuance of \$14,000,000 of City of Somerset Water System Revenue Bonds, Series 2012, consisting of \$9,000,000 of Series A Bonds and \$5,000,000 of Series B Bonds (the "Bonds"), for the purpose of financing the cost (not otherwise provided) of the construction of the Project referred to in said title; authorizes interim financing to pay the costs of said Project pending the issuance of the Bonds; designates Engineers for the Project and the depository bank of the proceeds of the Bonds and of certain funds to be maintained in connection with the Bonds; provides for a Sinking Fund for the payment of principal and interest on the Bonds, an Operation and Maintenance Fund, and a Debt Reserve Fund; provides that said Bonds are secured by a pledge of the gross revenues of the System; establishes the method of payment of the principal of and interest on the Bonds, and the conditions and restrictions for the issuance of bonds ranking on a parity with the Bonds; provides certain covenants of the City for the further protection of the holders of the Bonds, including covenants as to compliance with the Internal Revenue Code; and prescribes terms and conditions upon which bids will be received for the purchase of the Bonds.

A copy of the full text of said Ordinance is available for public inspection during regular business hours, Monday through Friday. (Signed) David Godsey, City Clerk, City of Somerset, Kentucky 42501.

* Ordinance too large to include in minutes. A complete copy is on file in the City Clerk’s Office.

Mr. Wheeldon moved to approve the above Ordinance # 11-13 regarding Water Plant Revenue Bonds. Mr. Rutherford seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

Mr. Wheeldon moved to approve the following Resolution extending the CATV Franchise with New Wave. Mr. Burnett seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

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RESOLUTION

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CONSENT AND APPROVAL OF LOCAL FRANCHISING AUTHORITY FOR
EXTENSION OF CATV FRANCHISE

WHEREAS, on October 12, 1998, the City Council of Somerset, pursuant to Ordinance 98-23, created a non-exclusive franchise for a cable television system to operate within the confines of the City of Somerset;

WHEREAS, Telecommunications Management, LLC d/b/a NewWave Communications currently owns and operates the cable television system (the "System")operating in Somerset, KY ("Grantor") and is a duly authorized holder of the franchise created by Ordinance 98-23 granted by Grantor (as amended to date, the "Franchise"); and

WHEREAS, Grantee seeks an extension of said franchise for a term of five (5) years, so that the Franchise shall be extended to 10/11/2018, and

WHEREAS, following review and investigation, Grantor has concluded that Grantee meets the necessary criteria to operate the cable television system and has satisfied the criteria set forth in and/or under any applicable laws, rules and regulations.

NOW, THEREFORE, BE IT RESOLVED by the common Council of the City of Somerset, that in consideration of the foregoing and the promises set forth herein, Grantor resolves as follows:

1. Grantor hereby consents to the extension of said Franchise for a term of five (5) years, so that the Franchise shall be extended to 10/11/2018.

2. Grantor confirms that (a) the Franchise was properly granted to or transferred to the Grantee, and (b) Grantee is materially in compliance with the provisions of the Franchise, and there are no material defaults under the Franchise or events which, with the giving of notice or passage of time or both, could constitute events of default thereunder.

ADOPTED AND APPROVED THIS ____ day of _____, 2011.

Mayor, Edward Girdler

ATTEST:

David Godsey, City Clerk

Mr. Beasley moved to approve the following Resolution consenting and approving the cable franchise to Time Warner NY Cable LLC. Mr. Eastham seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

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A RESOLUTION CONSENTING AND APPROVING OF THE ASSIGNMENT OF THE
CABLE FRANCHISE AND SYSTEM TO TIME WARNER NY CABLE LLC

WHEREAS, Telecommunications Management, LLC ("NewWave") currently holds a franchise granted by the City of Somerset, Kentucky (the "Community") to own and operate a cable system in the Community (the "Franchise");

WHEREAS, on June 11, 2011, NewWave entered into an Asset Purchase Agreement (the "Agreement") with Time Warner NY Cable LLC ("Time Warner Cable") whereby Time Warner Cable will purchase and acquire certain cable system assets, including the Franchise, from NewWave (the "Transaction");

WHEREAS, NewWave and Time Warner Cable have filed an FCC Form 394 with the Community and have provided to the Community all information regarding the Transaction required by applicable law (collectively, the "Application"); and

WHEREAS, the Community has reviewed the Application and has determined that Time Warner Cable meets the legal, technical, and financial criteria to operate the cable system under the Franchise and all applicable local, state and federal laws.

NOW, THEREFORE, THE COMMUNITY DOES RESOLVE:

1. The Community consents to the Transaction to the extent required by the terms of the Franchise and applicable law.

2. The Community confirms that the Franchise is valid and outstanding and in full force and effect and there are no defaults under the Franchise.

3. Effective upon the closing of the Transaction (the "Closing Date"), Time Warner Cable shall assume and be responsible for any all of the following obligations and liabilities that accrue on and after the Closing Date under: (1) the Franchise and (2) all federal, state, and local statutes, codes and/or regulations that accrue on and after the Closing Date, and NewWave shall be released from any of the above-mentioned obligations and liabilities under the Franchise that accrue on and after the Closing Date.

4. This Resolution shall take effect upon its passage and publication in accordance with applicable law.

ADOPTED AND APPROVED THIS ____ day of _____, 2011.

ATTEST:

By: _____
Name:
Title:

DC 347847.1

Second reading was given the following Ordinance # 11-15:

<p>ORDINANCE NO. <u>11-15</u></p> <p>AN ORDINANCE AMENDING ORDINANCE NO. 00-18, KNOWN AS THE ZONING ORDINANCE AND ALTERING THE ZONING MAP, BY CHANGING A BOUNDARY OF LAND NOW ZONED R-2 TO B-2. BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOMERSET, KENTUCKY:</p> <p>That Ordinance No. 00-18, known as the Zoning Ordinance, Somerset, Kentucky, be and the same is hereby amended by altering the Zoning Map in the following manner:</p> <p>I. By changing a boundary of land being zoned R-2 to land being zoned B-2, more particularly described as follows:</p> <p>A certain tract or parcel of land located on the East side of Hale Knob Road in Pulaski County, Kentucky, approximately 0.2 miles from the junction of West KY 80, described as follows:</p> <p>BEING ALL OF TRACT 1 of a Plat named TURPEN AND STEVENSON AND THE CITY OF SOMERSET PROJECT filed in Plat Cabinet E, Slide 46, in the Pulaski County Court Clerk's Office at Somerset, Kentucky.</p> <p>The above described having an area of 0.8393 acres as surveyed by Bobby Hudson LPLS 1253 on 3/04/2010.</p> <p>Being a portion of the same property conveyed to first parties by Deed of Conveyance from Reida Kay Helton, et al, dated March 25, 2009, of record in Deed Book 837, Page 692, Pulaski County Court Clerk's Office, Kentucky.</p> <p>ALSO</p> <p>A certain tract or parcel of land located on the East side of Hale Knob Road and on the North side of Massey Street in Somerset, Pulaski County, Kentucky, described as follows:</p> <p>BEING ALL OF TRACT 3 of a Plat named TURPEN AND STEVENSON AND THE CITY OF SOMERSET PROJECT filed in Plat Cabinet E, Slide 46, in the Pulaski County Court Clerk's Office at Somerset, Kentucky.</p> <p>The above described having an area of 0.0625 acres as surveyed by Bobby Hudson LPLS 1253 on 3/04/2010.</p> <p>Being a portion of the same property conveyed to first parties by Deed of Conveyance from Reida Kay Helton, et al, dated March 25, 2009, of record in Deed Book 837, Page 692, Pulaski County Court Clerk's Office, Kentucky.</p> <p>All corners or witness monuments referred to herein as Iron Pins Set are one-half inch Rebar 18 inches long and capped with an orange cap marked LS 1253, except as otherwise noted. All bearings are referenced to the Meridian.</p>	<p>This property is subject to any and all rights of way and/or easements of record or in existence at this time and regulations that may apply through planning and zoning.</p> <p>First parties further convey to second parties all their right, title and interest in the 20 ft. easement lying adjacent to the above described property as described in Deed of record in Deed Book 551, Page 113, Pulaski County, Court Clerk's Office, Kentucky, and all first parties' right, title and interest in easement granted to first parties and second parties in Quitclaim Deed from Konnie Massey, unmarried, dated April 06, 2009, of record in Deed Book 837, Page 700, Pulaski County Court Clerk's Office, Kentucky.</p> <p>II. This Ordinance shall be in full force and effect from and after adoption.</p> <p>FIRST READING <u>Sept. 12, 2011</u></p> <p>SECOND READING _____</p> <p>Approved: _____</p> <p>Mayor</p> <p>ATTEST: _____</p> <p>City Clerk</p>
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Mr. Rutherford moved to approve the above Ordinance # 11-15 altering the zoning map, from R-2 to B-2 East side of Hale Knob Road. Mr. New seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

Mr. Wheeldon moved to approve the North Main Street Streetscape Improvement Project. The bid being awarded to Hildon Inc. in the amount of \$519,992. Mr. Eastham seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

<p><u>3</u></p> <p>North Main Street Somerset Streetscape Improvements Somerset, Kentucky Carman # 08-132</p> <p>Bid Tabulation</p> <table border="1"><thead><tr><th>Bidder</th><th>Base Bid</th></tr></thead><tbody><tr><td>Gooch Construction Inc.</td><td></td></tr><tr><td>Hildon Inc.</td><td>\$ 519,992</td></tr><tr><td>Hinkle Contracting</td><td></td></tr><tr><td>Meyer Midwest Inc.</td><td>\$ 798,805</td></tr><tr><td>The BRC Group, LLC</td><td></td></tr><tr><td>The Neal Company</td><td></td></tr><tr><td>Weddle Enterprises</td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr><tr><td></td><td></td></tr></tbody></table>	Bidder	Base Bid	Gooch Construction Inc.		Hildon Inc.	\$ 519,992	Hinkle Contracting		Meyer Midwest Inc.	\$ 798,805	The BRC Group, LLC		The Neal Company		Weddle Enterprises												<p>23-Aug-11</p>
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Mr. Eastham moved to approve the Grand Central Blvd. Street Repair Project. The bid being awarded to Weddle Enterprises in the amount of \$187, 340. Mr. Bourne seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

Mr. Wheeldon moved to approve the following Bond Resolution with the KY Rural Water Association. Mr. Mitchell seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

<p style="text-align: center;">RESOLUTION</p> <p style="text-align: center;">RESOLUTION OF THE CITY OF SOMERSET, KENTUCKY APPROVING AND AUTHORIZING AN ASSISTANCE AGREEMENT WITH THE KENTUCKY RURAL WATER FINANCE CORPORATION FOR THE PURPOSE OF FINANCING A CONSTRUCTION PROJECT FOR THE EXISTING WATER SYSTEM OF THE CITY</p> <p>WHEREAS, the City Council of Somerset, Kentucky, (the "City") has previously determined that it is in the public interest to make extensions, additions and improvements to the City's water system (the "System"); and</p> <p>WHEREAS, the City desires the Kentucky Rural Water Finance Corporation (the "Corporation") to act as its agency and instrumentality for the purpose of providing monies to finance the cost of said extensions, additions and improvements consisting of upgrades to the water treatment plant (the "Project") and has made an application to the Corporation therefore; and</p> <p>WHEREAS, the City Council of the City has determined that it is in the public interest to upgrade the water treatment plant; and</p> <p>WHEREAS, in order to obtain such monies, the City is required to enter into an Assistance Agreement with the Corporation; and</p> <p>NOW, THEREFORE, BE IT RESOLVED by the City Council of Somerset, Kentucky, as follows:</p> <p>1. Authorization of Assistance Agreement and the Obligations Thereunder. For the purpose of paying the costs, not otherwise provided, of financing the Project, the City hereby authorizes and approves the issuance of its obligations pursuant to the Assistance Agreement in the maximum principal amount of \$5,000,000 [the "Obligations"], which amount as adjusted shall be the maximum amount of such Obligations to be outstanding at any one time under the Assistance Agreement, issued as fully registered Obligations, in said maturities and terms as more fully provided for in the Assistance Agreement. The Obligations shall bear interest at such rates and shall be payable in such amounts and at such times as specified in the Assistance Agreement, all as agreed upon by the City and the Corporation.</p> <p>2. Approval and Authorization of Execution of Assistance Agreement. The Assistance Agreement by and between the City and the Corporation in the respective form attached to this Resolution as Exhibit A, is hereby approved, subject to such minor changes, changes of dates, insertions or omissions as may be approved by the Mayor, such approval to be conclusively evidenced by the execution of said Assistance Agreement, in order to effectuate the purposes of this Resolution; and the Mayor, or any other officer of the City, is hereby authorized to execute and acknowledge same for and on behalf of the City; and the City Clerk is authorized</p>	<p>to attest same and to affix thereto the corporate seal of the City. The Assistance Agreement is hereby ordered to be filed in the office of the City Clerk with this Resolution in the official records of the City.</p> <p>3. Disbursement of Proceeds of Obligations. The City's officers, employees and agents are authorized to carry out the procedures specified in the Assistance Agreement for the financing of the Project and for the payment from time to time of the costs and related expenses associated therewith.</p> <p>4. Revenues of the System. The revenues of the System are determined to be sufficient to pay the principal of and interest on the Obligations, as the same become due and payable; and said revenues, pursuant to the terms of the Assistance Agreement, are hereby pledged to secure all such payments, and in addition, for such other purposes as are more fully specified in the Assistance Agreement.</p> <p>5. Mayor and Other City Officials to Take Any Other Necessary Action. Pursuant to the Constitution and Laws of the Commonwealth of Kentucky, the Mayor, the Treasurer, the City Clerk and all other appropriate officials of the City are hereby authorized and directed to take any and all further action and to execute and deliver all other documents as may be reasonably necessary to effect the issuance and delivery of the Obligations and the Assistance Agreement.</p> <p>6. Severability Clause. If any section, paragraph, clause or provision of this Resolution shall be ruled by any court of competent jurisdiction to be invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions hereof.</p> <p>7. Captions of Clauses. The captions of this Resolution are for convenience only and are not to be construed as part of this Resolution nor as defining or limiting in any way the scope or intent of the provisions hereof.</p> <p>8. Provisions in Conflict Repealed. All resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed.</p> <p>9. Effective Date of Resolution. This Resolution shall take effect from and after its adoption and approval.</p> <p style="text-align: center;">2</p>
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Adopted on September 26, 2011.

CITY OF SOMERSET, KENTUCKY

By _____
Mayor

Attest:

By _____
City Clerk

CERTIFICATE

1, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of Somerset, Kentucky; that the foregoing is a full, true and correct copy of a Resolution adopted by the City Council of the City at a regular meeting duly held on September 26, 2011; that said official action appears as a matter of public record in the official records or Journal of the City Council, that said meeting was held in accordance with all applicable requirements of Kentucky law, including KRS 61.810, 61.815, 61.820 and 61.823; that a quorum was present at said regular meeting; that said official action has not been modified, amended, revoked or repealed and is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature this September 26, 2011.

City Clerk

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Mr. Beasley moved to set the hours for Halloween from 6-8pm on Monday, October 31, 2011. Mr. Eastham seconded the motion. Upon roll call the following Council Members voted “Aye”: Mr. Mitchell, Mr. Bourne, Mr. Burnett, Mr. Eastham, Mr. Rutherford, Mrs. Stringer, Mr. Wheeldon, Mr. Beasley, Mr. Girdler, Mr. New, Mrs. Hunley, and Mr. Minton.

There being no further business the meeting adjourned.

APPROVED: _____
MAYOR

ATTEST: _____
CITY CLERK