

Cold Spring City Council September 23, 2013

The regular meeting of the Cold Spring City Council was called to order by Mayor Mark Stoeber. Pledge to the flag and prayer was led by the City Clerk. Roll call showed the following council members present – Lisa Cavanaugh, Lou Gerding, Dave Guidugli, Rob Moore, and Adam Sandfoss – excused was Kathy Noel, Also present were Police Chief Ed Burk, City Clerk Rita Seger, Administrative Officer Stephen Taylor and Attorney Brandon Voelker,

Mayor Stoeber pointed out exits from Council Chambers, per Fire Department regulations.

Mayor Stoeber requested one addition to the agenda, under New Business, Item E – Police Grooming Standards Policy.

Items of interest to the community were reviewed. The Movie in the Park, *Jack and the Giant Slayer*, was held on September 14, 2013. It was attended by 50 to 60 people and was very well received. Also on September 14, 2013 the City held a Trunk Sale at our Carole Huber Municipal Ballfield. It was very well attended, with 30 out of 33 spots being filled. It is an event that is catching hold quite a bit. There was no Yard of the Month awarded for September. Day in the Park will be held on Sunday, October 6th, from 1 pm to 4 pm at our Municipal Park. This is a fun family event. Phone the city clerk at 441-9604 if you would like additional information.

There will be a drawing for an American flag and pole for a resident staying until the end of this meeting.

The minutes of the August 26, 2013 council meeting were reviewed by all. Lou Gerding made a motion for approval and Rob Moore seconded the motion. All were in favor. Motion carried.

There were no scheduled guests.

Steve Trauth, 59 Madonna Lane, addressed Council. Residents received a letter from SD1 regarding the stormwater issue. He stated that it would be appropriate for an update from the committee before tonight's first reading of the stormwater ordinance in order for residents to better understand the issue and know what kind of expenditures we are looking at as a whole, since this will be a sizable increase and will require an extra line item in the city budget. Mayor Stoeber stated that we will give an update when we reach that agenda item, before the actual reading. Also, in tandem with some of our previous discussions the timing has worked out so that within a week or two when the city sends out the tax bills, we will include a city newsletter which will be another form of communication to the residents regarding the stormwater issues. Mr. Trauth stated that this should be a lengthy document, laid out in layman's terms, so that the citizens understand what is happening.

There were no old business items for discussion.

Ordinance 13-997 establishing the property tax rate at \$.1640, the tangible tax rate at \$.1890, and the motor vehicle tax rate at \$.1690, and setting the waste collection fee at \$129.00 per unit was read in summary for the first time. Motion was made by Rob Moore to approve this ordinance. Dave Guidugli seconded the motion. Mayor Stoeber stated that the real property tax rate is the current city tax rate, the tangible tax rate is the compensating rate which does not include the allowable 4% increase, the motor vehicle tax remains the same, and the waste collection fee is the contractual amount. Roll call vote showed five yeses and no noes. **Motion carried.**

The next item on the agenda is the ordinance on stormwater fees. Mayor Stoeber gave a quick review on how the lawsuits came about and how we reached this point where we have moved into our own stormwater management without being additionally charged by the Sanitation District. All of our residents, businesses, and municipal properties have received letters from SD1 stating that they are ceasing to provide stormwater coverage and related billing for the city of Cold Spring effective October 1st. The SD1 letter did say that a trailing bill from SD1 would be sent in October, but the stormwater charges on that bill will be for the month of September. With this ordinance we are establishing a fee with the understanding that the money is needed to expend back into the city for the purpose of the stormwater.

Councilman Lou Gerding representing the Stormwater Committee stated that the fee was arrived at by what is called the Equivalent Residential Unit, or ERU, which is the impervious surface on a residential piece of property. This is how the Sanitation District figured how to charge for the stormwater and they are currently charging for the ERU based on 2,600 square feet. The city paid a consultant so that we could go through the steps in defending how we reached this rate. The consultant

looked at a sampling of residential properties and found that the sample came back at 3,000 square feet ERU instead of the SD1 rate of 2,600 square feet. For that number we have come up with a fee of \$4.50 per month per ERU and we are allowing more stormwater runoff. The stormwater fee will be included in the property tax bill for single family units and duplexes. That charge will be for October, November, and December 2013. All others, which include the businesses and commercial properties will not go out until January and these bills will be for October, November, and December 2013. They will be billed quarterly rather than a large lump sum once a year, since their bills are much higher than \$4.50 and they have to calculate and budget for this expense.

Councilman Gerding explained that the \$4.50 fee is lower than what our residents currently pay to the Sanitation District. The recalculation of the ERU is also a benefit. We found that some of the businesses have an incorrect ERU, some larger and some smaller. That will still have to be worked out with our ongoing process. The rate of \$4.50 per ERU is estimated to bring in \$250,000. Our estimated first year's expenses will be at minimum \$279,000. After a year or so, the city stormwater expenses along with the consultants fees will go down. Eventually we are hoping, if the EPA doesn't change standards, that we can lower the figure considerably three or four years down the road. Right now there are bigger costs since it takes more money to establish everything.

Mr. Trauth questioned if we will have an increase in employee head count due to stormwater administration. Mr. Gerding stated that they agreed to either make a part time employee a full time employee or to have a part time employee come in. Mr. Trauth questioned, from an administrative side, if the all of the additional work is going to be able to be absorbed in the city's administration as we go forth, since there will be a tremendous amount of paperwork. Lou Gerding stated that the consultants will be doing part of this work, along with the designated employee.

Mayor Stoeber stated that we anticipate that for the first two years, the paperwork is going to be highly technical and complicated but as mentioned by Councilman Gerding, the complicated portion of the work will diminish over time. The maintenance paperwork will be handled by the designated employee.

Steve Trauth stated that just by looking at the overview, the figure of \$279,000 in expenses looks like a reasonable number. He agrees that getting the program up and established will be difficult but once started and put together, you just need to add onto it. Mayor Stoeber stated that the city will see the two figures mentioned by Mr. Gerding as a negative, but in the ordinance proposed tonight there is a statement that the city's general fund will act as a banking arrangement with the stormwater fees. If \$250,000 comes in and \$279,000 goes out, you are then \$29,000 short. You could go out and borrow the money, or you could borrow from the general fund. One thing of extreme focus is that the stormwater system should stand on its own and not be funded under other city tax dollars. The ordinance tonight reads that all moneys forwarded to the stormwater fund will in fact be repaid by the stormwater fund. It may not be immediate, but as the expenses diminish over time the money starts coming back.

Steve Trauth verified that we will see another department on the budget. He stated that the hard facts should come out in the city newsletter so that the residents get transparency and know where everything is going. Steve Taylor stated that we will be creating another enterprise. Mayor Stoeber agreed that the residents need to know the nuts and bolts of how we got here. Lou Gerding stated that tonight we are doing something unusual by interfacing back and forth with Mr. Trauth, but since he is bringing questions out on behalf of the residents, it is very good. Mr. Trauth said he is trying to look out for the residents of the city on camera so everyone sees where this is coming from. This is a major issue on the budget even though it will stand on its own. With SD1 no one knew where their money was going, but now they can truly see the numbers.

Mayor Stoeber explained the ERU. By definition all single family houses and duplexes are designated as one ERU. While one home has less impervious surface and the other has more, with the survey the normal is that everyone will fall pretty solidly in that 3,000 ERU, and the fee for single family homes and duplexes will be for one ERU at \$4.50 per month. However, with large businesses, shopping centers or condos they may have many designated 3,000 square feet ERUs so their bill will be based on their allocated number of sections times \$4.50. Their bills will run more, but will actually be less than current SD1 charges. Dave Guidugli stated that SD1 has built in that they raise this fee every year. We are expecting that within three to five years our rate will go down, unless EPA standards change.

Brandon Voelker summarized and pointed out the highlights of the proposed stormwater ordinance. As of October 1, we become a stand-alone stormwater permittee, and we have to do a stormwater quality management plan which is one of the big costs. The consultants have already met with the state to outline a five year plan on when we will do certain things, such as community outreach. During the first year, three ordinances will be required for illicit discharge, post and pre-construction regulations and the like. The cost is very high at first, but once the program is in place, they will drop dramatically. In the beginning the rates don't match dollar for dollar but the savings start in years two or three. Article I of the ordinance outlines the statements that explain why we have to comply with stormwater and what we have to do for controlling erosion and maintenance.

Article II is what gives us authority in KRS 91A which allows us to establish user fees for services being provided. An important thing to look at is the statement that this is an unfunded mandate by state and federal law and they didn't provide us money for this mandate. When a residents questions why we are charging a fee to engage in stormwater, we have no choice. Also under KRS 91A 530 you have to have a separate fund and all moneys have to go into that fund which you can only expend for your stormwater program.

Article III gives all of the Definitions, including the definition of ERU's and the fees. It defines impervious surface as paved areas, or rooftops, pools and the like. The biggest decision that the committee made is that gravel does count as an impervious surface. While you cannot have a gravel surface in the city, some areas are grandfathered in. We have to make sure we are using the term fee, because this is not an ad valorem tax, under KRS 91 A.

Mayor Stoeber interjected that because it is money out of your pocket, residents may believe it is a tax, but basically this is a fee that goes to stormwater only, as opposed to a tax. Real estate tax is an ad valorem tax which means we can pay for police, public service or a variety of things with the tax money. Garbage collection is a fee, which means that money coming in for that payment must only go toward payment of the collection of garbage. The committee's intent in setting a collection rate was that it be equal to what is needed for stormwater, and legally a fee requires that this money only goes toward stormwater. In the event that there becomes extra moneys, that automatically requires that you revisit that rate because you can only set it up for what you need it for.

Brandon Voelker stated that the condos were a big item of discussion. They were always charged as commercial through the HOA, and the committee decided to keep that the same because obviously that is what they were accustomed to doing. The property owner is liable for this fee. If they have tenants, the city is not in the position to find out who the tenant is, and that is between the landlord and the tenant.

Article IV is where we outline the establishment of the stormwater management fund. It will always be a special fund, just like MARF is. This will be a separate line item on the budget every year and will not be intertwined in any way with the general fund of the city. This includes wording that prior to the adoption of the ordinance the city has expended funds that we will itemize and submit to the city for reimbursement of the general fund dollars expended on these services to date. This will be out of transparency so everyone knows and brings forward to this body what exactly has been spent and what will have to be reimbursed. The ordinance, states that any transfers from the general fund for which reimbursement may be sought, shall be first identified and approved by City Council. If in year one we would run \$25,000 short then we could say we are funding this and will recapture this later. It is all being out in the open and satisfies the state who wants this in public outreach. The wording is also included that states that nothing shall prohibit the city from seeking to borrow funds necessary to fund the stormwater program set forth herein, either from a financial institution and/or the city's general fund. The committee's decision was to keep the rates a little lower because there will be savings in the future years versus having a high rate and then lowering it when the city has reserves in the general fund. It will all be in writing and submitted to this body to approve.

Article V it outlines the purposes of the fund, and includes a section that is a catchall for whatever the State or the Federal EPA send down the pike which we will have to adjust for the purpose of the fund. Article VI states the stormwater management fee is based on essentially the extent of the runoff from each property, impervious surface, and the cost of implementing a stormwater management program. Article VII explains the classification of properties. There will be three classifications, single family residential, non single family residential, and non-developed property. On the single family residential if someone has a lot that for some reason has a house and an adjacent lot, that is considered as one unit, even though you may have two separate deeds. It has to be adjacent property. Non-developed lots, regardless of size, will be just one ERU unit. Non single family residential is essentially everything else. Regardless of the designation by the PVA, the condos are commercial property.

Article VIII discusses the base rate. It states that we did engage environmental rate consultants and they did a property sample by using the rooftops to determine what the ERU was which was higher than what SD1 had. Article IX sets the monthly rate. Single family residential is \$4.50 per month as is non-developed, and non-single family residential is \$4.50 per ERU by using the impervious calculation. Article X states that we are charging tax exempt property, as does SD1. Also we are charging ourselves as well, so the general fund will pay for our impervious surface and that will go into this fund. The rules do apply to the City. We are currently paying SD1 and we will pay ourselves. Article XI states that we don't have to send assessment notices but if we choose to we can. Article XII refers to how we are going to bill for the stormwater fees on the city tax bills, but in arrears. Your current tax bill is due December 31st and will include the stormwater fee for October, November, and December 2013. Next year in 2014 you will get a bill for entire year of 2014. We will bill commercial properties quarterly. From a budgeting standpoint the committee asked that we make findings to alleviate the fact that commercials obviously have significant

impervious surface area. At the end of the year if they get a big bill it makes it difficult for them to budget, so we will bill them quarterly to allow the businesses to continue to budget the way they have with SD1.

Mayor Stoeber reiterated that currently the businesses are being billed quarterly by SD1 and our residents are being billed monthly. That residential billing will now be annual billing and in arrears, so the city does have the wherewithal to be able to handle that funding flow and additionally provide some relief to residents on a regular basis to process that bill. Also it is administrative efficiency.

Brandon Voelker stated that Article XIII is a request for correction. We are obviously just beginning this, and if someone thinks their calculation is wrong they may submit a notice to the city. Our goal is to handle things administratively versus people running out to the court. They do have a right to come and ask this body for a correction. Because we don't have a board for this right now, we will do this internally. If someone believes their calculations are incorrect, we have experts that we have hired and we will have them go out, look it over and make a determination. Long term, we are looking at the discharge ordinances and things like this that may ultimately be put before the code enforcement board.

Article XIV states that our ERU is 3,000 square feet. Since this ordinance is ten pages Article XV states that provisions shall be made that should any of this be found unlawful or invalid, the rest of the ordinance shall remain in effect once this ordinance is passed, published and recorded according to law. This ordinance is just a draft and it will be emailed to the experts to look over for us, and there could be some changes before the second reading. Any changes will be forwarded to council electronically for review. Lou Gerding verified that some clerical errors will also be corrected.

Ordinance 13-998 was read in summary form for the first time, establishing the Cold Spring stormwater systems and fees associated therewith. Lou Gerding made a motion for approval, and Rob Moore seconded the motion. Lisa Cavanaugh questioned how many other cities in Northern Kentucky do their own stormwater. Brandon Voelker stated that Florence does their own, some cities were able to be exempted, and Ft. Wright has not signed an agreement yet with SD1. Roll call vote showed five yeases and no noes. **Motion carried.**

Mayor Stoeber thanked the stormwater committee, Lou Gerding, Dave Guidugli, and Rob Moore, and City Attorney Brandon Voelker for all of their hard work, and stated that there is a lot of work yet to be done for the implementation in filing with the state. All of these meetings were open to the public for those who wished to participate.

Mayor Stoeber stated that this is a first reading, and it doesn't go into effect until the second reading and the publication. Brandon Voelker requested that the second reading be held at a special meeting on September 30th, at 7:30 pm, and that we convert this to include caucus items and not have a caucus meeting in October. Council members agreed to the special meeting.

Dave Guidugli stated that he would like to thank Brandon Voelker for his hard work on this stormwater issue. He kept the meetings going and he understood everything the consultants were talking about and was able to give the committee a much better understanding of it.

The next item on the agenda was discussion of 911 fees. Brandon Voelker gave a background regarding the County's change in charging for 911 dispatch fees. In 1986 the county established a 911 dispatching system and in 2005 they asked we amend our ordinance when they were seeking an increase in charge. The city was never in the dispatching business, and under our interlocal agreement you have to have a stand-alone authority to engage in an interlocal agreement. The city never wanted to start a dispatch center. We have always said that the county is certainly in its power to do so and we never adjusted our ordinance. It is old and in the books but it is not the rate that is currently being charged. If the county is going to ask everybody to repeal our ordinances we can do that, but ever since he has been our City Attorney we have always taken a position that we can't really pass an ordinance establishing a fee for a service that we don't provide. The cities that do have a dispatching center are also on the Board that governs the dispatch center. We have never had a seat on the Board because we do not have a dispatch center.

Halloween dates and times were discussed. In the past we have essentially had trick or treat actually on Halloween, October 31st, from 6 to 7:30 pm. Council agreed that the day and time has always worked well for us, so Mayor Stoeber stated that it will be held once again on **Thursday, October 31st from 6 to 7:30 pm**. He stated that as always the Police Department will be out to protect the children, and also he urges residents who are out driving to be very aware of this trick or treat date.

As an addition to the agenda, **Ordinance 13-999 was read in summary form for the first time, approving the update to the Police Department grooming standard policy.** Mayor Stoeber stated that the safety committee has recommended the adoption of such. Brandon Voelker stated that he has done a preliminary research on grooming standards and the rights of cities to uphold appearance, and he is going to do more research on a federal case in Pennsylvania regarding such. He is comfortable

with the city doing a first reading tonight. Dave Guidugli made a motion to approve this ordinance. Lou Gerding seconded the motion. Roll call vote showed five yeses and no noes. **Motion carried.**

Mayor Stoeber verified with council that we will also place this on the special meeting agenda on September 30th, along with 2nd readings on the stormwater ordinance and the tax ordinance. Since we are not seeking increases on the tax rates, there is no public hearing required for the tax ordinance.

There were no follow up citizens comments.

Department reports were submitted in writing and reviewed.

Adam Sandfoss reminded everyone to get their flu shots and wash your hands regularly.

Lisa Cavanaugh thanked Steve Yelton at Shadow Lake, Joyce Muench at Springside and Bill Bramble at Chardonnay for having her at their association meetings. She met many of our residents, enjoyed talking to them and getting their views on the city, and she plans on going to some more of these type meetings. She talks with many of our residents, gives out her contact information and she has enjoyed doing that. You can contact her and she will do whatever she can to help. Call the city to get her contact information, or go to Facebook, Cold Spring Councilwoman Lisa Cavanaugh if you would like to get regular updates on things going on with the city. Also she has noticed in the past couple of days that public works has been painting yellow lines and they look very nice with a fresh coat of paint. She stated that a couple of people have asked her for a brief explanation about the "Monday Mile" markers that have been placed in the neighborhoods because they were confused on how to figure out where to stop and start, etc. Mayor Stoeber stated that the neighborhoods have markers that indicate a mile, in quarter mile increments. The Monday mile concept is just to remind residents to get out and walk a mile. The markers are pretty much self-contained and indicates the start or finish, ¼, ½, or ¾ mile.

Lisa Cavanaugh asked if there was an amount of discretionary spending in the mayor's position which can be done without approval of council. Mayor Stoeber stated that technically the answer is no because the budget is approved and the mayor can only spend what is within the budget. As an example, if the budget was approved at \$100,000, then he can spend \$100,000, but the mayor cannot spend \$100,001 without council approval, which is why at the end of the year the council approves an amended budget and approves all of the expenditures.

Mayor Stoeber stated that tonight we spoke thoroughly about the stormwater fee and how we got to where we are now, and also to the various events that are occurring.

There were no eligible residents in attendance to win of the American flag and pole at this meeting.

Lou Gerding made a motion to adjourn the September 23, 2013 council meeting, and Rob Moore seconded the motion. All were in favor. Motion carried.

Approved:

City Clerk:

Mayor:

**Cold Spring City Council
Special Meeting
September 30, 2013**

The special meeting of the Cold Spring City Council, as advertised, was called to order at 7:30 pm by Mayor Mark Stoeber. Roll call showed the following members present – Lisa Cavanaugh, Lou Gerding, Dave Guidugli, Rob Moore, Kathy Noel, and Adam Sandfoss. Also present were City Clerk Rita Seger, and City Attorney Brandon Voelker. The purpose of this special meeting was to hold second readings on three ordinances.

Mayor Stoeber pointed out exits from Council Chambers, per Fire Department regulations.

Ordinance 13-997 was read in summary form for the second time, for the establishment of FY 2013/2014 Cold Spring tax rate (for each \$100), for real property at \$.1640, for personal/tangible property at \$.1890, for motor vehicle at \$.1690, and establishing the 2014 waste collection fee at \$129.00 per year. Dave Guidugli made a motion to adopt this ordinance and Kathy Noel seconded the motion. Roll call vote showed six yeses and no noes. **Motion carried.**

Ordinance 13-998 was read in summary form for the second time, establishing the Cold Spring stormwater system and the stormwater management fee at \$4.50 per month per ERU. Brandon Voelker stated that there were two changes from our last meeting. These changes were just cleaned up to read that the single family residential units include duplexes. Three or more would be considered commercial. Also, non developed property would receive no fee because it includes no impervious surface. An undeveloped vacant lot would not be charged until a development occurs on it. Dave Guidugli questioned a couple of areas along Pooles Creek Road that have two houses on one lot. Brandon Voelker stated that they would receive only one bill. If someone has an extra lot adjoining the lot that includes their home, it would be considered one ERU and one bill to the property owner. Dave Guidugli made a motion to adopt this ordinance and Lou Gerding seconded the motion. Roll call vote showed six yeses and no noes. **Motion carried.**

Ordinance 13-999 was read in summary form for the second time, adopting the Police Department grooming standards policy. Lou Gerding made a motion to adopt this ordinance and Rob Moore seconded the motion. Roll call vote showed six yeses and no noes. **Motion carried.**

There being no further comments for council, attorney, or mayor, Lou Gerding made a motion to adjourn the September 30, 2013 special meeting and Rob Moore seconded the motion. All were in favor. Motion carried.

Approved:

City Clerk:

Mayor: