

REGULAR MEETING
CITY COUNCIL OF THE CITY OF NASHVILLE
COUNTY OF BERRIEN
August 24, 2009

INVOCATION: Mayor Harper delivered the invocation.

PLEDGE: Pledge of Allegiance was led by Mayor Travis Harper

WELCOME: Mayor Harper welcomed all in attendance.

ROLL CALL: Members of the City Council present included Aldermen, Scott Stalnaker, Dick Perryman, Michael Richbourg, Darrin Davis, Billy Retterbush, Bill Turner and Mayor Harper.

STAFF PRESENT: Mandy Luke, Tine Haughton, Henry Yawn, John Reynolds, Tommy Davis, Peter Schultz, Chief John Clayton and Mitchell Moore.

OTHERS PRESENT: Randall Milton, Fern Turner, Cheryl Bonham, and Frank Watts.

ADOPTION OF MINUTES FROM PREVIOUS MEETING: Alderman Richbourg made a motion seconded by Alderman Stalnaker to approve the minutes of the previous meeting. Motion was carried unanimously.

ADOPTION OF FORMAL AGENDA: Mayor Harper asked if anyone would like to add anything to the Agenda. Alderman Retterbush requested that he would like to add the results on the Deep South Solid Waste meeting which was held last Wednesday. Alderman Davis requested that we add discussion on a City Auction. Mayor Harper also requested we add the topic on ditches. Following these requests, Alderman Richbourg made a motion seconded by Alderman Turner that the Formal Agenda be approved with the three (3) additions requested. Motion was carried unanimously.

NEW BUSINESS

1. 1st READING OF FLOOD DAMAGE PREVENTION ORDINANCE – ATTORNEY MOORE

Attorney Moore told the group the only thing that he wanted to point out to them regarding their version of the Ordinance is the fact that there are some typos in it. He also told the group that he would make the corrections and provide the City Clerk and City Manager with a clean copy. He stated to the group that this will be considered the first reading of the Ordinance. He noted there is a typo on page 2 under Section B it has the effective date listed as August 1, 1982 which it is actually August 1, 1986. He added this is when the first study was done. Attorney Moore remarked that we have an automatic adoption provision. He informed the group there were actually some maps drawn up and were adopted on May 12, 1986. He then asked the group to refer to page 14, under the title of "Existing Manufactured Home Park or Subdivision" and called their attention to the May 12, 1986 date. He told the group that Nashville had them done back in 1986 and that there had not been any done since then. He informed the group the

new revised one will be effective on September 25, 2009. He told the group that the dates refer back to when the first ones were done because there is an automatic adoption under the City's Ordinance. He reiterated that the date should be May 12, 1986. Attorney Moore referred back to page 4 and about him asking the Council who the administrator was going to be. He stated that the secretary did a global under that section. Instead of reading just Code Enforcement it should read Code Enforcement Officer. He told the Council the only other thing he had done is that he has actually added a provision of another Ordinance that he is submitting to the Council, which is under the City's Municipal Code, is to have a continuing violation provision. He then referred the Council to Page 3, Section H entitled Penalties for Violation. He told the group he had revised this code. He then read the section dealing with the violation. He explained to the group that sections 17-1 through 17-5 deal with the Municipal Court provision for bonds. He further explained that there is currently no Section 17-6 as referred to under Section H, but that he has added this one. Attorney Moore stated this provision provides for general continuing violations. He then read the following section of the Ordinance: The code states that whenever in this Code or any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or any ordinance the doing of any act is required and the failure to do such act is declared to be unlawful, and no specific penalty is provided; and unless otherwise provided by state law, the violation of any such provision of this Code or any such ordinance shall be punished by a fine not to exceed \$1,000.00 and imprisonment in the city or county jail not exceeding 6 months, or both a fine and sentence of imprisonment and labor; and all sentences may be in the alternative and fines may be imposed with the alternative of sentence to imprisonment and labor if the fines are not paid. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense. After the reading Attorney Moore explained to the Council that in other words each day is an on going offense if the court so contends. He stated that the fine is anywhere up to a \$1,000.00. He told the Council that quite frankly he wasn't sure what they wanted to charge for a violation of this ordinance. He added that the charge can be anywhere from \$1.00 to a \$1,000.00 for violation of this ordinance. He stated that this is up to the Judge but the City can set this. He stated this provision will give the City those parameters. He remarked that this provision actually enhances our penalties under the City's existing Municipal Court. Attorney Moore stated with these revisions to the Flood Ordinance (he has given Ms. Luke a clean copy) this will be considered the first reading and the second reading and adoption will be at the next meeting. He informed the Council this will also be considered the first reading of the Provision of Section 17-6 on General Penalty Violation. He stated however this item was not on the Agenda but thinks it will be fine. He remarked we will have the second reading and adoption of both of the ordinances at the next meeting.

2. REPORT ON DEEP SOUTH SOLID WASTE MEETING – ALDERMAN RETTERBUSH Alderman Retterbush began by informing the Mayor and Council that he is happy to announce that the work he has been working with the Deep South Solid Waste Board on, the City of Nashville will be getting a check for \$30,000.00. He further stated that they will be having a big check presentation. He told the Council the City is a member of this board and beginning January 1, 2010, the board will be getting \$1.27 per ton for each ton that is dumped into the landfill. He stated that the City of Nashville will be eligible for a portion of this money and also for

grants and can borrow money like we did on the composting of yard debris. He added this has been a real good thing. He told the Council the main thing the City has to do is to get all the trash in that landfill. He added the County is also getting some money but probably only half of what the City is getting. He told the group that the City will be getting the \$30,000.00 pretty soon and that the members of the board is coming to present the check to the Council. He emphasized that this money has got to be used for solid waste. He added we could pay for the operation of the limb truck, buy a new boom for the truck and hopefully look at getting the City a new truck with a grant. In closing, Alderman Retterbush remarked that he just wanted to report this to the Mayor and Council.

3. AUCTION OF SURPLUS CITY EQUIPMENT – ALDERMAN DAVIS Alderman Davis informed the Council that he had spoken with Sheriff Heath as they are getting prepared to do their auction. He stated the Sheriff told him that they would be happy to do the City's with theirs at the same time. He told the group that he and Tommy Davis had went and looked at all the stuff over there some few months ago. He stated there are some surplus stuff that is over there that is either in bad condition or that we don't use anymore. He told the group that in talking with the Sheriff he said he would be happy to show the City how he is setting his stuff up and is willing to help us do our first one along the same line they do theirs along with the bid procedures, etc. Alderman Davis told the group he wanted to see if this is something we can working on with our department heads in getting an inventory of stuff we can get up for the auction to try and help the City out. Alderman Stalnaker informed the group that he was contacted on Friday by Elaine Shiver from the County and she stated that the County is actually scheduling an auction separate of what the Sheriff is doing. He stated the Sheriff has got a car and a little bit of farm equipment they are going to do on that day. The County is scheduling a big auction and they wanted to know if the City is interested in getting in and advertising with them because they have to advertise it for the same period of time the City does. He said they are starting to advertise for another auction separate of the one the Sheriff is doing. He said they have a lot of merchandise for the County. He remarked the merchandise includes property, etc. Alderman Stalnaker stated the County said for the City to get with them and we could join them and do it all at the same time and at the same location. Alderman Davis asked if an auctioneer would be used. He stated that the Sheriff does not have an auctioneer and the only fees they will have be advertising fees. Ms. Luke informed the Council that Ms. Shiver told Johnny that one of their commissioners actually does this. She said from what Ms. Shiver said we would be getting the auctioneering service free. Alderman Stalnaker remarked that is also his understanding and believes that Commissioner Jimmy Parker is the auctioneer. Mayor Harper asked if the County has set a date set. Alderman Stalnaker responded they do not have a date set yet because they wanted to contact the City and get together and try to pick a date that is feasible for both parties. He stated they feel like the more stuff you have the more people you will be able to draw and the bigger the sale will be. Alderman Davis recommended getting a list together of the surplus items or otherwise. Alderman Retterbush told the group that we can look at any scrap metal we have because this is worth money also. Alderman Stalnaker stated the Police Department may have a vehicle or two that has been seized and they have a couple of surplus city vehicles along with some bicycles. Mayor Harper asked Ms.

Luke to get with Ms. Shiver and the City department heads and get a list of items and a good date for the sale.

4. CLEANING OUT DITCHES – MAYOR HARPER Mayor Harper told the Council he would like to talk about the City's ditches. He stated that the City has been given the green light to clean up some parts. Mayor Harper told the Council he had checked the ditches behind South Berrien Street and they are stopped up with beaver dams and we need to do something about this part of it. He stated that the area is north of Meadowbrook and south of the Log Cabin. He said there are a couple of beaver dams and it is standing in water. Mayor Harper asked Mr. Tommy Davis if the City can clean this out. Mr. Davis responded that he doesn't know how we can. He added that it can be cleaned out. Mayor Harper asked about the equipment to clean it out. Mr. Davis responded the City doesn't have the equipment that can reach in there. Mayor Harper asked if we needed to talk with Ben Warren at the County. Mr. Davis responded that we can talk to him about getting an excavator and giving us a hand. Mayor Harper commented that he was thinking that since the City went to a four day work week we could get some of the guys to come in one Friday when the County is not working and borrow their equipment if they will allow us to do so. He said we could authorize some guys to come in on a Friday and work some overtime. He stated this way we can use County equipment because they pretty much use it four days a week. He remarked that we can get back there and get some of that cleaned up while we can. Attorney Moore asked if this is behind what they call the Old Horseshoe. Mayor Harper responded yes that it is back in that area. He told the Council basically we need to get with the County and see if we can borrow the equipment and get the Council to authorize the overtime if it is more than Ms. Luke can authorize and have the guys come in on a Friday. There was some general discussion among the group regarding the number of beaver dams in that area. Mayor Harper told the group we need to get this cleaned out and the water moving because it is stagnant. Alderman Retterbush commented that this situation also presents a mosquito problem. He added if we can get an excavator with some thumbs on it where we can put it in there with the City's and County's dump trucks and haul it off. Alderman Stalnaker told the group that he could contact the DNR about getting them to bring in some nuisance trappers and pick up some of these animals and transplant them some place else. Following these discussions, Mayor Harper asked the Council if everyone was on board concerning allowing the Friday overtime day for the employees and contacting the County about borrowing some of their equipment so we can get this done. The Council was in agreement with these recommendations.

REPORTS

5. CITY MANAGER/FINANCE DIRECTOR'S REPORT – Ms. Luke informed the Council that we are continuing to work on our new software and get everything transferred over. She remarked that she hopes we can get started on our utility billing pretty quick. She added they are trying to finish it up and are going to train us on this. She also informed the Council that the City is slowly beginning to receive the money from GEMA and FEMA on the flood covered by the Presidential Disaster Declaration. She stated the total amount the City should be receiving is \$88,894. She added thus far we have received \$17,000 of this and still waiting on the rest of it. Alderman Retterbush asked about the status of the T-Grant. Mayor Harper responded that the City is waiting on the State to approve

some money. He said this was indicated in a letter he had received. He added it is on hold right now from Transportation.

6. CITY ATTORNEY'S REPORT Attorney Moore remarked to Ms. Luke that she had sent him an e-mail regarding BAB bonds. He questioned the group if they are familiar with this. He explained to the group that they actually go to the County. However, the City is on the list for Economic Development Bond. He informed the group that the Berrien County has been allocated \$823,000.00 He told the group that he doesn't know what the City might have that would qualify them for these bonds. He added this is actually goes to the County. Ms. Luke remarked that from what she understands we would have to go to the County. Attorney Moore stated that the deadline for submitting the information back to the County is Wednesday, August 26, 2009, but we have until December 31, 2010. He then asked the group if they have received this information. They answered in the affirmative. He stressed to the group that this is not free money but bonds. He told the group that he just wanted to bring this to the Council's attention to see if there is any interest in contacting the County. Attorney Moore told the group the other item he would to discuss is regarding the Consent Order. He informed the group that John Hunkele, Pete Maye and he had did a revised Consent Order and he had sent it to them. He added he needs to get with Ms. Luke on this. When asked had she received a final copy of the amendment, Ms. Luke responded no. Attorney Moore stated he is going to try and get a copy of this. He remarked that he has sent them what he has. He added that he is going to get an actual executed copy which he has not received. He stated he had talked with John Hunkele last week and he is going to get this to him. Mayor Harper asked him about the Alcohol Ordinance he gave to him the other day if he had got any further on this. Attorney Moore responded no but he knows this is an area the Council wishes to address. He stated this is in his current file and he will get with him on this.

7. DEPARTMENT HEADS' REPORT

Mayor Harper called for any Department Heads' Report

Chief Clayton came before the Mayor and Council requesting approval on an item. He stated that back approximately two (2) months ago the Police Department had applied for a grant through the Byrne Jag Grant Program and was awarded the grant. He informed the group that there is someone who will be delivering some of the shotguns, which are a part of this grant, on Monday, August 31, 2009. Chief Clayton asked for the Council's approval on cutting a check for \$5,905.00 to pay for these. He informed them that they had received notice that they had got the approval for the grant on Friday. He said the monies are ready to be released. He further informed the Council that the City has to purchase the items and then we will be reimbursed for them. He stated we will have to file the paperwork on this. He told the Council because this price exceeds the \$5,000.00 limit on spending he needs to get their approval on this. Alderman Richbourg told him to do what he had to do. The Council was in agreement with this request.

PUBLIC COMMENTS/GENERAL COMMENTS FROM COUNCIL

Mayor Harper called for any public comments. There being none he then called for General Comments from the Council.

Alderman Turner expressed thanks to the City Government and the City employees for the nice flowers that were sent to his sister's funeral. He then stated that he wishes to publicly commend Mr. Henry Yawn for cleaning up the blighted areas in our town. He received a round of applause.

Alderman Perryman asked if the City has started running the USDA ad. It was indicated that the answer is no. In response, Attorney Moore stated that he had talked with Pete Maye the last time they were here. He commented that he realizes the City wants to keep this option open. Attorney Moore informed the Council that Mr. Maye said if the City exercises this option and EPD gets wind that the City wants to use this option it would not have a good impact. He added he realizes this is no reason not to run the ad. Alderman Perryman asked if anyone knows what the beef is with USDA. He remarked that John Hunkele or no one has wanted the City to use USDA money and that he is just curious. He then asked if anyone has given us a reason. Attorney Moore responded none other than the fact of the time line involved. Alderman Perryman in turn remarked that the time just became an issue six (6) weeks ago. He added that six (6) months ago they were also pushing the City away also and he is just curious if anyone knows why. Attorney Moore told the group that he was the one looking at this because he initially thought it would be cheaper and still does. He stated it's 2.75% versus 3.00%. He added there is a point on the fact that he was not aware of. In answering, Alderman Perryman's question, Attorney Moore remarked that everybody he has talked to said it is just aggravating and the conditions involve a lot more hoops to jump through. Alderman Perryman remarked it would be a lot of work. Mayor Harper commented that the contractors' bids would have to come in just a little higher because they would have to spend more time with the USDA loan. He added he did not know how much more higher but they did say the bids would reflect a GEFA or USDA loan because they understood the extra paper work and that they would have to go through with a USDA loan as opposed to a GEFA loan. He stated if it makes that much difference in the long run with the two million dollars he wasn't sure. Attorney Moore told the group that Pete Maye of Coastal Engineering had told him after the meeting, as a practical matter, that the additional cost was not that much savings. He remarked that he would like to hear this from them. He added that he trusts the City's engineers and that he trust both Pete Maye and John Hunkele. He remarked to Alderman Perryman that to answer his question, the point is that this is a lot of money. He then asked Alderman Perryman to get with him on this and he would get with the engineers. Attorney Moore informed the group that he has contacted USDA. He stated they are more than willing to do this loan. Alderman Perry told the group that Pete Maye eventually said if the City went with USDA at this point it is going to get the City in trouble with EPD because it is going to take too long. Attorney Moore remarked that in paraphrasing this is the general jest of what he said. He stated that the engineers stated that every time they have dealt with USDA it had been time consuming and a long and drawn out process. He basically said what he was anticipating if the City went that route he had understood him to say that EPD might say we're going to revise this Consent Order and you're going to finance with them, which you are talking about a year versus a matter of weeks with the other. John Reynolds informed the Council that the extra environmental stuff the USDA was requiring was not only time wise but it was going to cost. He

stated maybe not as much as the difference between the two loans but it is going to add a lot more money to the project. Mayor Harper stated he had forgotten the City was asking EPD to come down to re-do our plans but it was going to cost the City more money so then the City went back to them to get the guy down here to cut this out so it wouldn't cost the City so much money. He remarked that basically the City has been working on this before he came on. He stated it has been something that we have constantly been working on for the two and a half years he has been here. He added that he had thought earlier the City had been dragging its feet but with all the negotiations to make this as low as possible, he supposes we are right where we need to be. He stated however we are still under a time constraint. Alderman Perryman told the Council the one thing that has frustrated him is that because we were not told six, nine or twelve months ago that with USDA it takes a while to get in place or if we want to do that there is an option you need to start moving. He added he is a little upset that the City was not told until it was too late to get USDA money. Mayor Harper asked when did we actually start talking about USDA because all he remembers talking about is GEFA. He added that all of sudden USDA jumped out there as another option. He asked Alderman Perryman if this was after he came on. Alderman Perryman responded that he recalls that we had been talking about USDA. Alderman Turner remarked that the City has worked with USDA for years. He then asked Ms. Luke how much did we have left on the current loan. She responded that we are approximately half way. Alderman Turner stated the City has been familiar with USDA before but not on this project too much. Alderman Perryman remarked that he just doesn't understand why this wasn't brought up. Attorney Moore responded that to be honest with him he did not know there was that big of disparity. He stated in talking with everyone it was assumed that the City would go with GEFA. He said when it came time to start comparing this then comes in USDA and there is this huge 25 basic points difference. He told the group that you are talking about real money when you're talking about \$5 million. Alderman Turner told the group that Pat Sutton and he had attended a session in Perry with USDA. He stated that USDA would send a representative down here to speak to the group. Alderman Perryman remarked it is what it is at this point. He added that it is too much. He remarked that Pete Maye had said if the City goes with USDA and it takes too long, EPD is going to come in and get us. Alderman Retterbush responded that EPD has given the City an extension before and if they see that we have gone this far and paid the engineers all this money that he is sure they will say we want to make sure we are making the right decision that they will give us an extension. Attorney Moore told the Council that in fairness to Pete Maye he will follow up with him again and make sure. He added he did not want to misrepresent what Mr. Maye had indicated to him. He remarked that John or Pete will go either way the City wants them to. He added they haven't encouraged the City to go with USDA. Alderman Perryman said this is an understatement saying they haven't encouraged USDA. John Reynolds told the group that John Hunkele had told him that he has had a lot better track record with GEFA. He told the Council that the lady from USDA had stated they want to do a sewer plant because they haven't done one in a long time. Mayor Harper echoed what Mr. Reynolds said about the USDA. He remarked that he supposes it is the hoops and things that no body cares to deal with USDA. Attorney Moore told Alderman Perryman that he understands what he is saying. Alderman Perryman remarked that this is a dollar and cents thing to him and this is where he is coming from causing him to be a little hacked off about it. He said he thinks the payment difference is about \$200,000.00 per year. He added this is a lot of money. Alderman Retterbush

asked why we don't investigate this further before we go forward. Attorney Moore responded that the thing is that this is his fault from a stand point. He added the options are still there. He went on to say that it is available and that we have left this open. Attorney Moore told the group that to be frank he has not been encouraged that this is an avenue we need to pursue. He said he didn't mean we can't keep it open. Alderman Stalnaker remarked that we need to make sure we run the ad. Mayor Harper told Attorney Moore that they make it sound like if the City doesn't get this thing started and renegotiating the Consent Order we may start facing fines if we go with USDA and it takes a lot longer. Attorney Moore responded that what they were saying was they want to get ahead and work on the Consent Order. He stated that the financing is not put in the Consent Order. Alderman Perryman asked when does the current Consent Order run out. Attorney Moore responded that we still have time which is by June 2010. He then read the Consent Order. John Reynolds informed the Council that John and Pete want to bid this out by Christmas, but they are not through with the plans yet. Alderman Perryman asked if we can show some progress. Attorney Moore responded that EPD is slamming our proposal which has brought us to a standstill. Alderman Perryman then asked if USDA is an option. Attorney Moore responded that the option is open.

ADJOURNMENT: There being no further business to discuss, Alderman Richbourg made a motion seconded by Alderman Stalnaker to adjourn. The motion was carried unanimously. Meeting was officially adjourned at 6:43 p.m.

Mayor Travis Harper

Alderman Michael Richbourg

Alderman Darri n Davi s

Alderman Di ck Perryman

Alderman Bil ly Retterbush

Alderman Scott Stal naker

Alderman Bill Turner

ATTEST:

Johnny Hall, City Clerk