

**CITY OF FORT MITCHELL, KY**  
**PUBLIC HEARING ON TAX RATE AND REGULAR CITY COUNCIL MEETING**  
**August 17, 2009**

**CALL TO ORDER / PLEDGE OF ALLEGIANCE / ROLL CALL**

Mayor Holocher called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

**PRESENT:** Vicki Boerger, Mary Burns, Bill Reis, David Schrand, David Stoeckle, Will Terwort, Christopher Wiest and Dennis Zahler **Others Present:** Mayor Thomas Holocher, Police Chief/CAO Steve Hensley, City Attorney Robert Ziegler, City Treasurer Amy Guenther\*, Public Works Director Robert Zerhusen, Fire Chief Scott McVey, and City Clerk Amy Able.

**APPROVAL OF MINUTES**

**Mr. Zahler made a motion to accept the minutes of the July 20, 2009 meeting as presented; Mr. Schrand offered a second to the motion. Mayor Holocher called for a vote and the motion carried by voice vote.**

**PUBLIC HEARING ON THE TAX RATE**

Mayor Holocher opened the public hearing and read the notice published regarding the tax rate. The notice included the allowable rate (which is the rate that generates four percent more revenue than what would be produced by adopting the compensating rate). Mayor Holocher offered the following message. He explained that the budget process started in March. Generally speaking he believes we should take the allowable rate (compensating plus four percent increase to revenue). That amount is never four percent higher than the rate the prior year; it is usually an increase of 2% or less to the rate. This year we have a \$620,000 deficit. A few years ago recurring costs were reduced by \$250,000; this included two full-time positions (one was filled by a part-time person). We have also extended equipment use by one to two more years on public works and police department vehicles. We also have received considerable grant funds over the past few years. In these and other ways we reduced costs before it was fashionable to do so. He believes we need to save when times are good because there will be times that are bad. Several programs have been proposed but not initiated. We are financially in pretty good shape. Since the budget was approved some road projects came in up to thirty percent lower than the engineer's estimates so we have seen a decrease from the budgeted cost of these projects. The economy may not turn around this year. Many expect it may not get much better until the second half of 2010. Though a four percent increase to revenue from property tax was budgeted, **the Mayor stated his recommendation is to leave the tax rate the same as last year. (That was .1470 per \$100.) He stated if we took the allowable rate (providing a 4% increase to revenue) owners of a \$100,000 home would have a \$4 increase on their tax bill. If we adopt the same rate as last year there would be no increase on the tax bills and a slight decrease for those who qualify for a homestead exemption** (because the exemption amount was increased to \$33,700 this year). The Mayor continued his message by saying the following: we know a few things about the future. The pension will not be fully funded for close to ten years. We need to continue our road programs and need to continue the work of the City and keep the infrastructure in good working order. This results in people maintaining their properties well. The property tax, payroll tax and insurance premium tax are our three main revenue streams. If heavily loaded in one area it can hurt. For example, Boone County is straining due to reliance on payroll tax because there has been a decrease from the airport cutbacks. If we were heavily reliant on payroll tax without property tax we would be hurting. We do not want to have to be in a position of one day asking for a huge increase nor do we want to be forced to lay off employees. The Mayor reiterated his recommendation is to keep the property tax rate the same as in 2008. Since taking office in 1994 the rate was .1622 and today it is .1470 which shows we do a good job at watching spending and taking care of money. He added he believes long serving members of Council would agree with that. The Mayor called for anyone wishing to address Council.

**Mr. Tom Wessels of Thompson Avenue** said he came to speak against a tax increase and is glad to hear Mayor Holocher's proposal.

**Mrs. Martha Kuchle of Princeton Avenue** stated she appreciates the consideration of not increasing taxes.

Mr. Reis asked Mrs. Guenther about the deficit and current projections. Discussion ensued. Mrs. Guenther noted it is difficult to judge but gross receipts will be lower and there will be a deficit next year. The budgeted amount is a \$600,000 deficit; hopefully that amount will be closer to \$300,000 if we are able to come in under budget. There was a discussion of the separate funds and the recommended amount of reserve.

**Mr. Jim Kiger of Gettysburg Drive** asked about the effect of the budget being passed with the four percent increase to revenue and adoption of a lower rate. Mayor Holocher responded if all numbers came in exactly as budgeted the deficit would increase by roughly \$20,000.

There was discussion of the tax rate history and the property assessment process. There was also discussion of the budget process.

Mr. Wiest read into the record an email from **Glenn and Nancy Rice** of 16 Princeton who stated we should adopt the compensating rate and give tax relief.

**Ms. Debbie Borchers of Louise Drive** asked if any thought had been given to cutting waste collection to once a week to reduce costs. In response it was noted we are under a contract which was recently renegotiated resulting in the rates being locked. Results of past surveys indicate the residents prefer twice a week trash and once a week recycling collection.

Upon confirming that there was no one else present wishing to speak, Mayor Holocher announced the **close of the public hearing at 7:45 p.m.** The Mayor noted taking an item from the City Attorney's report out of order to discuss the tax rate.

**Mr. Wiest made a motion to set the tax rate at the compensating rate of .1460 per \$100. Mr. Terwort offered a second to the motion.** Mr. Zahler asked for confirmation that the rate adopted by Beechwood School resulted in a decrease. Mr. Terwort voiced his support for cutting the rate noting that Council cut \$70,000 from the Centennial. Mayor Holocher responded to statements about the amount in the original budget for the Centennial. The intent was to have something permanent for the citizens and to get corporate donations. The problem is without an amount in the budget, whatever funds may come in cannot be spent. That was the purpose of the \$100,000 line item in the proposed budget; it was never for a single celebration, party or fireworks but rather for something lasting. When the budget was adopted it was agreed to reduce that line item to \$30,000. Mr. Terwort said due to that budget cut, taxes can be reduced. Mr. Zahler stated that was a poor example as it was meant to be offset with donations. Mr. Wiest pointed out that if the intent was to fund the Centennial with donations there was only a line item on the expense side but not on the income side. Ms. Burns voiced support of the motion because incomes have not increased. Mr. Wiest recalled during the budget process cuts were suggested in phone costs, insurance and council salaries. Mrs. Boerger noted cutting Council salaries has been proposed numerous times in the past but it has not passed. Mr. Wiest and Ms. Burns said they would support reducing Council salaries. Chief Hensley noted the phone service is being discussed with vendors and we have discussed the insurance policies and the fact we are in a three year contract however the City Attorney is reviewing this. Mr. Terwort said it is time to give tax relief. There was discussion of what is the acceptable level of surplus.

Mr. Wiest stated that the City will have 1.9 million dollars in the bank at the end of this budget year for the general fund and other funds have millions of dollars as well. Mr. Wiest said the impact of the economy this year on citizens and businesses, as citizens have been laid off, taken pay cuts, or had their salaries frozen. Mr. Wiest noted that we could adopt the compensating rate without cutting services and that it sends a message to our citizens that we understand where they are, and the City is there with them, and symbolically taking the compensating rate is the right thing. The Mayor called for a roll call vote on the motion.

<b>Mr. Wiest:</b>	<b>Yes</b>	<b>Mr. Reis:</b>	<b>Yes</b>
<b>Mr. Terwort:</b>	<b>Yes</b>	<b>Mr. Schrand:</b>	<b>No</b>
<b>Mrs. Boerger:</b>	<b>No</b>	<b>Mr. Stoeckle:</b>	<b>No</b>
<b>Ms. Burns:</b>	<b>Yes</b>	<b>Mr. Zahler:</b>	<b>Yes</b>
<b>Yes: 5</b>	<b>No: 3</b>	<b>Absent: 0</b>	<b>Motion carried.</b>

Mr. Ziegler gave **first reading in full to Ordinance 2009-04** setting the real property tax rate at .1460 per \$100.

#### **MAYOR'S REPORT**

There were no citizens present responding to the Mayor's invitation to address Council for items not on the agenda.

Mayor Holocher recognized Mr. Mark Stoeber, the Mayor of Cold Spring and Brian Volker, their City Attorney. Mayor Stoeber explained he would limit his remarks since they have entered litigation with the Sanitation District; a copy of the filing was previously announced to Council. He stated in 2003 Cold Spring signed an interlocal agreement. A major component of that agreement was storm water management in all aspects including SMS4. In June of 2009 a letter requested the transfer of assets in concert with the interlocal agreement and further stated this was for closed and not open portions and would be binding forever into perpetuity. Mayor Stoeber said this is subject to interpretation of the agreement and his City's opinion was that all open and closed sections would be taken and this would not be into perpetuity. Cold Spring did not want to be in the storm water business and open portions are significant. A request for interpretation was filed in circuit court and that request is consistent with the press release. Members of Council asked several questions of Mayor Stoeber including the amount residents of Cold Spring paid in and the amount SD1 spent in Cold Spring and if they were prepared to "go on their own." Mayor Stoeber said \$1.9 million was collected and \$77,000 was spent within Cold Spring and they are prepared to go on their own. Mayor Stoeber declined to answer certain questions noting there has been a series of meetings and considerable information gathering, but the numbers for Cold Spring may not be applicable to Fort Mitchell so data sharing may not be beneficial.

Mr. Jeff Eger, General Manager of the Sanitation District was present with Mr. Jim Parsons to answer questions about the transfer agreement. Mayor Holocher noted we often talk of project costs and asked what the common costs such as mapping the systems were. Mr. Eger stated the revenue referred to is the amounts billed. He added Cold Spring submitted an open records request to SD1 giving them three days to respond. That area is billed by group and there are some un-incorporated areas. He added they funded 80 of 84 projects there and complied with all requirements. SD1 must identify outfalls and develop programs to deal with them. There has been a considerable cost to go through this in three counties. The costs of these systems are tens of millions of dollars and there are legal costs from law suits. Mayor Holocher asked for an estimate of start up costs and Mr. Eger responded it is \$35 million noting the distinction that sanitary

side is impacted by the storm side. Chief Hensley cited the example of the current project in the former Crescent Park area. Discussion ensued. Mr. Terwort asked if SD1 is willing to not increase rates greater than four percent or have any amount over go to that City. Mr. Eger responded that is outside of the transfer agreement. The extent of costs is not known and management of storm water and sanitation cannot be separated. Mr. Wiest asked for confirmation on EPA issues. Discussion continued. Mr. Parsons noted the definition of "utilizing" is not new, it was sent to all city attorneys last year, and a meeting was held after the agreements were sent in June. There were multiple meetings with city officials to review maps. To date six cities and one county have approved the transfer agreement. SD1 will not give a "better" agreement to one community than has been given to the others. Mr. Parsons said they are moving forward with regard to the approval process. Regarding the "red line" copy, they are reviewing the specific but cannot agree to limitations in rates especially in a regulatory environment. The rate structure has been approved by three county judges.

*\*Mrs. Guenther left the meeting at 9:20 p.m.*

There was discussion of open creeks and streams and that cities cannot transfer what they do not own. Mr. Eger responded to questions from Mr. Zahler about billing.

*Mr. Reis stepped out at 9:26 p.m., returning at 9:30 p.m.*

Ms. Burns noted there is a concern that if we took care of our lines but others did not, we may still suffer skyrocketing rates. Mr. Eger responded that in 1994 there was a concern in the suburbs that the river cities were in poor condition but it turns out those were well built. Conversely, building new treatment plants to accommodate new developments is expensive. Some areas must reduce overflows and some must eliminate them.

At 9:50 p.m. the Mayor called for a five minute recess. The regular session resumed at 10:02 p.m.

Mayor Holocher expressed thanks to **Jeremy Schrand** who provided the framed photographs of various sites in the City which are now hanging in the Council Room.

#### **CITY ATTORNEY'S REPORT**

Mr. Ziegler explained that the office of the **Kentucky Attorney General issued an opinion** concerning the City's May 18, 2009 meeting finding that there was a violation of the Open Meetings Act as general personnel matters should not be discussed in executive session. Mr. Ziegler cautioned that in the future we must be cognizant that if discussion during an executive session strays out of the realm of what is permissible, the discussion must cease or Council should go out of executive session and return as necessary.

Mr. Ziegler read **Municipal Order 2009-08 restricting a parking space on Leather's Road** to those with a handicapped parking permit only. **Mrs. Boerger made a motion to adopt Municipal Order 2009-08; second to the motion was offered by Mr. Reis.** Mayor Holocher called for any questions or comments from Council and upon hearing that there were none, he called for a vote. **The motion carried by voice vote.**

Mr. Ziegler read **Municipal Order 2009-09 appointing Mr. Robert Wilder to fill an unexpired term on the Board of Adjustment.** The vacancy was created by the resignation of Mr. Doug Hill. **Mr. Reis made a motion to adopt Municipal Order 2009-09; second to the motion was offered by Mrs. Boerger.** Mayor Holocher called for any questions or comments from Council. Mrs. Boerger thanked both Mr. Hill and Mr. Wilder for their will to serve on this Board. Upon hearing that there were no further questions or comments, Mayor Holocher called for a vote. **The motion carried by voice vote.**

Mr. Ziegler read **Municipal Order 2009-10 appointing Mr. Grabow to the Municipal Tree Commission. Mr. Reis made a motion to adopt Municipal Order 2009-10; second to the motion was offered by Mr. Wiest.** Mayor Holocher called for any questions or comments from Council, upon hearing that there were none, Mayor Holocher called for a vote. **The motion carried by voice vote.**

Mr. Ziegler gave **first reading in full to Ordinance 2009-05** setting the park tax.

Mr. Ziegler gave **first reading to Ordinance 2009-06** setting the waste collection fee.

### **CITY ADMINISTRATOR'S REPORT**

Chief Hensley noted a letter addressed to Beechwood School was copied to Council regarding a proposed billboard at Beechwood.

Chief Hensley stated the City has received notice we will not be receiving CMAQ nor Safe Routes to Schools grants. Mayor Holocher added we had hoped for funding to address the sidewalk along Dixie Highway between Highland and Idaho. A meeting with Rob Hans of the KY Highway Department revealed the scope of the storm water issues is larger than originally believed and additional engineering work will be required. The State is willing to be involved with this project on some level. Mr. Zerhusen will work with the engineers on review. The estimated cost was \$55,000 and Council is asked to consider the project.

At the next meeting we will need an Executive Session to discuss acquisition of real estate.

Mr. Zerhusen reported on the following items. The bids for Harvard Drive for concrete repairs and for Chelsea Drive were favorable. A pre-construction meeting will be held tomorrow and the project will begin Monday. This Thursday milling begins on Huckleberry Hill with work on Seville to follow. Mr. Ziegler is reviewing right-of-way issues concerning residences on Dixie Highway. The water main is in on Oxford Drive, service will be switched at the end of the week. Road work will begin the last week of August. We are waiting on the new lights to arrive for the End-of-the-Line area.

### **COMMENTS FROM COUNCIL**

Mayor Holocher noted an eighth grade student from Blessed Sacrament, Alex Zdolshek, passed away on Thursday and the services will be held on Tuesday. Sympathies were expressed to the family and the BSS community.

Ms. Burns stated concerns about a visibility issue on Beechwood Road near Fort Mitchell Place due to a weed/tree approximately seven feet from the light.

Ms. Burns expressed congratulations to Beechwood High School for their news-making, high ACT scores.

Ms. Burns stated there are three dead trees on the Duke Energy property on Beechwood Road.

Mrs. Boerger stated she understands the position of those voting for the compensating tax rate. She said the City needs to be run like a business and she would have been more comfortable staying with last year's rate. The rate adopted impacts this year's budget and the following year's as well.

Mrs. Boerger referenced an email circulated in reference to the adoption of the tax rate urging citizens to contact certain members of Council. She asked that in the future communications concerning a matter to be voted on be copied to all Council members, the Mayor and the City Administrator.

Mrs. Boerger stated a resident asked if allowing golf carts would be considered to help alleviate parking concerns during the construction at Beechwood and she realizes this would require Police Department and legal review. Chief Hensley responded there are statutory requirements that would need to be met. In addition to the City adopting ordinances, golf carts would need to be licensed, insured and inspected and must be used within a certain proximity to a golf course. There would also be concerns with regard to speed limits and use on state highways. He stated the Police Department would not be in favor of allowing this as it is not in the best interest of public safety. Satellite parking sites have been established at Beechwood Swim Club, Fort Mitchell Baptist Church and Kroger.

Mr. Wiest asked about a news item on the website titled "Make your quote count." Chief Hensley stated a resident who is an insurance agent has pledged donations to provide lock-out equipment and jump starter packs to the Police Department for each quote inquiry received when the individual mentions the program. No purchase is required but for each quote \$5 will be donated toward the equipment purchase. Mr. Zahler cautioned if this is considered a rebate by the Department of Insurance it is not allowable.

Mr. Wiest said that, with regard to the business perspective and the compensating rate, businesses all over are cutting costs. Adopting the compensating rate is right for residents and businesses.

Mr. Wiest commented about the email on adoption of the tax rate. He said informing citizens is the right thing to do.

Mr. Terwort stated General Mitchel's great-great-grandson will come to the City's Centennial. There are twenty-five to thirty descendents interested in coming for the Centennial.

**ADJOURNMENT**

There being no further business on the agenda, **Mr. Stoeckle made a motion to adjourn the meeting in honor of Alex Zdolshek, and Mrs. Boerger offered a second to the motion.** Motion carried by voice vote, **the meeting adjourned at 10:56 p.m.**

Signed \_\_\_\_\_, 2009

Respectfully submitted by:

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Amy B. Able, City Clerk

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Thomas E. Holocher, Mayor