



**Florence City Council
Business Meeting
Tuesday, September 8, 2020
6:00 p.m.**

MINUTES

The City Council of the City of Florence, Kentucky, met in regular session on Tuesday, September 8, 2020, at 6:00 p.m. at the Florence Government Center, 8100 Ewing Boulevard, Florence, Kentucky, with Mayor Diane E. Whalen presiding as chair.

CALL TO ORDER & WELCOME:

Mayor Diane E. Whalen called the regular meeting to order and declared the regular session open for the presentation of all city business.

ROLL CALL:

The roll was called, and the following six (6) members of council were present: Dr. Julie Aubuchon (Vice-Mayor), Mel Carroll, Duane Froelicher, J. Kelly Huff, David Osborne, and Gary Winn.

Staff members present were: City Coordinator, Joshua R. Wice; Assistant City Attorney, Thomas Nienaber; Chief of Police, Tom Grau; Fire/EMS Chief, Scott Knoll; Business & Community Development Director, Joshua Hunt; City Clerk, Melissa Kramer; Videographer, Spencer Foreman; and Corporal, Zack Eagler.

The following were also present: Retired Volunteer Firefighter/EMT Captain Marty Thomas; Family and Friends of the Fire/EMS Volunteer Retiree, Marty Thomas; Retired volunteer firefighter, Tom Spille; Mattress Overstock, Owner/Representative, Charlie Wilson; and Trish Scheyer, The River City News.

APPROVAL OF MINUTES:

Mayor Whalen called for a motion to approve the minutes of the August 25, 2020, business meeting. Councilmember Winn motioned to approve the minutes with a second from Councilmember Huff. **All councilmembers present voted aye.**

PRESENTATION:

Mayor Whalen called upon Tom Spille for a special presentation for Retired Volunteer Firefighter/EMT Captain, Marty Thomas.

Tom Spille presented to retired volunteer Firefighter/EMT Captain Kenneth M. Thomas (Marty) with the honor of a Kentucky Colonel. Mr. Spille relayed to all that Marty joined the Florence Volunteer Fire/EMS Department on November 7, 1973 and served faithfully until he retired on

January 31, 2017. During Marty's career, he held several positions within the department, including Treasurer, Executive Board Chairman, and Safety Officer. He was a Kentucky State Fire Instructor and provided numerous hours of training to department members. As the chief business officer of the Florence Volunteer Fire Department, Inc., Marty helped to transition the department from a total volunteer agency, to a combination department to the current career department of today.

Mr. Spille continued, as if the fire department activities were not enough, Marty juggled his time between the department and coaching youth sports where he coached Boone County Peewee Football for over 15 years. There were also several stints coaching knothole baseball and freshman basketball at R.A. Jones Middle School. Although this was a brief overview, the countless hours Marty spent serving the youth and the city over the years was incomparable.

Mr. Spille served alongside Marty for many years and personally witnessed Marty's compassion to make the department and the city a safer place. Mr. Spille stated a saying in the fire service "The old firefighter's job is to make new firefighters become old firefighters." This is accomplished by teaching the new firefighters and keeping them safe. Marty has done an outstanding job over the years and is no longer just Captain Thomas, Mr. Spille presented to Marty the commission of Kentucky Colonel.

Marty Thomas thanked Mr. Spille and stated it took him twenty-three years to make Captain, and now he is a Kentucky Colonel. Mr. Thomas was honored and pleased to see his friends including Councilmember, David Osborne, Councilmember, Mel Carroll, and Mayor Whalen. Mr. Thomas recalled Mayor Whalen as a child with her father at council meetings. Mr. Thomas thanked his friends in attendance including Larry Brown, Tom Spille, and Dennis Bidwell. Mr. Thomas was thankful and glad to be in attendance. The recognition rendered him speechless.

Prior to the meeting, Mayor Whalen would not offer any hint of his required attendance indicating Mr. Spille wanted to surprise Mr. Thomas and honor him with the presentation of the commission of Kentucky Colonel. Mayor Whalen stated the fellow firefighters who served alongside Mr. Thomas wanted to show their appreciativeness. Mr. Thomas was thankful.

Councilmember Osborne thanked Mr. Thomas for attending and for his service to the Florence Fire/EMS Department. Councilmember Osborne stated Marty is to be commended because of the foresight he had in making the Florence Fire/EMS Department what it is today. He continued stating Marty was one of the pioneers including his fellow crew. The results of the foundation they laid can be seen within the city.

Councilmember Carroll reiterated Councilmember Osborne's statements. Councilmember Carroll stated things do not just happen. Someone has to have a vision and the incentive to make things happen. As a result, today we have a Fire/EMS Department we are proud of. The service within Florence is impeccable.

Mayor Whalen thanked Mr. Thomas and the attendees for being in attendance. She thanked the firefighters for having the drive to get up and go when the sirens go off and Mayor Whalen reiterated the foundation of what was laid has allowed the city to grow into the department we have today.

FIRST READING OF ORDINANCE O-12-20:

Mayor Whalen read Ordinance O-12-20. An ordinance relating to the levying of a tax upon real estate and personal property in the City of Florence, Kentucky; levying a tax on all franchises taxable within the City of Florence, Kentucky; specifying payment dates, discounts and penalties for the franchise tax on financial institutions measured by the deposits in the institutions located within the city; and levying a special tax for the payment of current service costs for police and firemen in the county employees retirement system. (2020)

This is the Ordinance by which the City establishes tax rates and levies annual taxes. The basic tax levied for General Fund purposes is a tax of eighteen and two-tenths cents (\$.182) per one hundred dollars of value on real property and a tax of twenty-nine and eight-tenths cents (\$.298) per one hundred dollars of value on personal property (except for motor vehicles and watercraft) and upon all franchises taxable by the City.

In addition this Ordinance levies a tax in the amount of six and four-tenths cents (\$.064) per one hundred dollars of value upon all real and personal property (except for motor vehicles and watercraft) and upon all franchises taxable by the City for the purpose of payment of the City's obligations for current service costs for police and firemen in the County employees' retirement system.

All of the above mentioned taxes are due and payable upon final passage and publication of this Ordinance. A discount of two percent (2%) is allowed for any such taxes paid in full by November 1, 2020. Any such taxes remaining unpaid after January 1, 2021, are subject to a penalty of twelve percent (12%) plus interest on the amount unpaid at the rate of twelve percent (12%) per annum from January 1, 2021, until paid.

This Ordinance also establishes a franchise tax in the amount of twenty-five thousandths of one percent (0.025%) on all financial institutions measured by deposits in such institutions located in the City. This tax was levied by Ordinance No. O-18-96, pursuant to the Bank Franchise and Local Deposit Tax Act. (KRS 136.575) A two percent (2%) discount is allowed against this tax on bank deposits if paid before December 31, 2020. Any such taxes paid after January 31, 2020, will be subject to a penalty of twelve percent (12%) plus interest in the unpaid amount at the rate of twelve percent (12%) per annum from January 31, 2021, until paid. The Ordinance establishes corresponding due dates, discounts and penalties for subsequent years.

Councilmember Carroll was happy to approve the ordinance incorporating the same tax rate for the past twelve years. He was happy the city is able to offer increased level of services maintaining the same tax rate for over a decade.

Councilmember Aubuchon inquired of Mr. Wice as to the comparable cities property tax rates. Councilmember Aubuchon felt other cities had a higher tax rate and that Florence is still relatively low due to the commercial and retail industries within the city.

City Coordinator, Joshua Wice, stated comparable to our neighboring cities, Florence is \$2.46 for real estate; Union is \$2.00 and an additional \$1.89 for the fire district, which is nearly double our

tax rate. Erlanger is approximately \$3.4/3.5 and Elsmere's rates are approximately \$3.1/3.2 plus a school tax, which is double our school tax. In addition, there is also a fire department tax. Covington is approximately \$2.9/3.1 and substantially higher than Florence. Mr. Wice stated he will gather the information and provide to council in their next packet.

Councilmember Carroll stated he believes everyone will be surprised at Florence's lower tax rates. Other cities also pay a fire district tax and garbage tax. Services including garbage and water are much higher than Florence. Water and sewer rates are higher as well. Councilmember Carroll requested those comparable rates be added to the requested tax rate information.

Councilmember Aubuchon also reiterated that our residents do not pay a fire tax as neighboring cities. In addition, Mr. Wice stated the garbage service is relatively lower than neighboring communities.

Mayor Whalen stated Florence is a full service city and she was appreciative of all the employees which make that happen.

Mayor Whalen called for a motion to approve the first reading of Ordinance O-12-20. Councilmember Carroll motioned to approve, with a second from Councilmember Winn. **All councilmembers present voted aye.**

OCCUPATIONAL LICENSE DENIAL APPEAL HEARING:

Mayor Whalen called upon Assistant City Attorney, Thomas Nienaber, and Charlie Wilson, for presentation of the occupational license denial appeal hearing.

Charlie Wilson thanked the Mayor and city council for hearing his appeal. Mr. Wilson stated he received the denial letter for the occupational license as a result of not listing all of his felonies. Mr. Wilson stated he put the main charge as the form provides a small line to add charges. He thought that was for older charges, over ten-twenty years ago and therefore only added his one charge. The felony he listed was for receiving stolen property from approximately six years prior. There were two additional felonies which were "piggybacked". Mr. Wilson agreed to a plea deal and never went to trial. Mr. Wilson added on the form the charge which was a larger sentence for receiving stolen goods. Mr. Wilson was not trying to hide behind the felony. He assumed the application was reviewed and it would reveal all charges were the result of his plea deal.

The other part of the denial letter indicated criminal intent. Mr. Wilson was offended and hurt by those statements. When he opened the store there was no criminal intent. The criminal actions occurred in a narrow time. Initially, Mr. Wilson did not open the store with the intent of buying stolen merchandise. It was a pawn type shop. Mr. Wilson stated he was in a bad situation making bad decisions and he paid dearly for those choices. He is 55 years old and spent 50 years of his life making good choices. He went to prison, served his two years, and came home. Upon being released, Mr. Wilson stated he got his life together and worked very hard doing. At the mattress store, the state of Kentucky accepted him, federal, and never thought obtaining an occupational license would be an issue. He wanted council to know the person and informed them to ask any questions and he would try to answer as honest as possible. He believed he received the denial

from those two convictions unless someone is not able to obtain an occupational license after a felony.

Mayor Whalen called upon Mr. Nienaber for presentation of his case. Mr. Nienaber questioned Mr. Wilson:

Mr. Nienaber: Mr. Wilson, when you filled out this application you understood all the questions that were asked in the application, did you not?

Mr. Wilson: Yes, sir.

Mr. Nienaber: It was self-explanatory, very clear?

Mr. Wilson: Yes. If you are talking about that one line, I was trying to tell you what I thought it meant. I did not know I had to put another piece of paper and add those two smaller felonies on there.

Mr. Nienaber: Doesn't the application say if you need more room to add a separate sheet to add your explanation?

Mr. Wilson: I think that's what is says in the fine print.

Mr. Nienaber: Did you call anybody at the city and ask for help in filling out this application? The city coordinator? The city clerk?

Mr. Wilson: I know I asked somebody while I was here about the application, um, I filled it out here and turned it in.

Mr. Nienaber: The crime you say you listed for stolen property that was for goods over \$10,000.00?

Mr. Wilson: The totality yes.

Mr. Nienaber: And it also included receiving stolen firearms, correct?

Mr. Wilson: I'm glad you said that because that charge would not have held up had I taken to trial because there were 28 guns. I'm an avid hunter. 28 guns seized. The one that was stolen was the one I got out of a storage locker in Wisconsin when I lived there. I used to buy storage lockers and it was in there. I never bought guns and I never bought jewelry in that place.

Mr. Nienaber: And you owned two pawn shops right?

Mr. Wilson: No, sir.

Mr. Nienaber: You had one in Erlanger?

Mr. Wilson: No that wasn't me.

Mr. Nienaber: That wasn't you?

Mr. Wilson: No, sir.

Mr. Nienaber: And the total number of individual implicated in this in what the police reports called an organized crime operation, correct?

Mr. Wilson: That was the original charge that they wanted to go for. They had a bunch of changes on there. But obviously that wasn't the case with me.

Mr. Nienaber: And five of the people that were indicted in that organized crime organization were either employees or owned an interest in your pawn shop, correct?

Mr. Wilson: No sir that is not correct.

Mr. Nienaber: How about William Godsey?

Mr. Wilson: Nothing to do with me.

Mr. Nienaber: Jessica Burnett?

Mr. Wilson: Nothing to do with me.

Mr. Nienaber: Jayna Byrd?

Mr. Wilson: Nothing to do with me.

Florence City Council

Minutes: Tuesday, September 8, 2020

Mr. Nienaber: Randall Byrd?

Mr. Wilson: Nothing to do with me.

Mr. Nienaber: Joshua Megerle?

Mr. Wilson: Nothing to do with me.

Mr. Nienaber: So the police report and investigative reports were all wrong?

Mr. Wilson: It's not that they are wrong, they tried to link both of us together and that wasn't the case, if you look at the two different charges. I did not because I was a separate entity all together. Never once did they say we were one or I was on that shop. Never on any financials was my name or anything. I know they tried to link it because they used my name.

Mr. Nienaber: You also plead guilty to failing to file excise taxes, correct?

Mr. Wilson: That was due for the eBay accounts. EBay charges a tax so it wouldn't apply to that and it would not take to trial.

Mr. Nienaber: But you plead guilty?

Mr. Wilson: Yes sir I did.

Mr. Nienaber: And you were sentenced to prison for that?

Mr. Wilson: Yes sir I was

Mr. Nienaber: You also had some other charges in 2011 for failure to appear in court?

Mr. Wilson: I think that was the catalyst for when they came into the store. What was that on, I don't even know what that was on?

Mr. Nienaber: And you were also charged with contempt of court and resisting arrest that you did not report, correct?

Mr. Wilson: No, I don't even know about that one.

Mr. Nienaber: So the police reports are all wrong then?

Mr. Wilson: I don't even know.

Mr. Nienaber: So you don't recall it?

Mr. Wilson: I mean, I, resisting arrest?

Mr. Nienaber: Do you not agree that telling the full story about your criminal past with the pawn shops and the receiving stolen property was in fact an incomplete application that you filed?

Mr. Wilson: That statement though is wrong because you made it plural. It's not plural. There is only one, that is pawn shop, and I only owned one small shop. Now, I tried to explain why I did that. I put the large charge which was receiving stolen property for the C felony on there. I figured if you did investigate it you would see there were two other charges stacked on there. It doesn't matter if they are correct or not because I plead guilty to them. Because when they offered me the plea deal, to keep my wife out of jail because they were going to bring her into as well. So I did what any man would do, I took the charge, because the knowing or should have known law of receiving stolen property, I could beat in court, so yes, I took the plea deal.

Mr. Nienaber: But you acknowledge here tonight that your application was incomplete?

Mr. Wilson: I mean,

Mr. Nienaber: Yes or no and then you can explain.

Mr. Wilson: Yes. It is incomplete, but I told you why it was incomplete because I assumed that was for someone that would have multiple felonies over the years. I didn't hide behind, if I was going to hide behind one, I would put the small charge of the tax or something and left out the receiving stolen property which is the C felony which is the bad one. They are all bad.

Mr. Nienaber: And you recognize and acknowledge here tonight that you did not disclose all of your felony convictions, correct?

Mr. Wilson: You are correct sir. I did not put that on there.

Florence City Council
Minutes: Tuesday, September 8, 2020

Mr. Nienaber: And you also agree that your application did not tell the whole story as it relates to the pawn shop, singular in Covington?

Mr. Wilson: I'm sorry, can you repeat that?

Mr. Nienaber: You acknowledge that your application, with the ten words or so with an explanation, does not tell the whole story with your affiliation with the pawn shop in Covington, correct?

Mr. Wilson: On something like that, I don't want to sound like I'm defending it, because I did it, I was there, um but if I start rattling on.

Mr. Nienaber: And do you also agree that your response in your application that you submitted to the city for an occupational license could in fact be misleading, do you not agree and acknowledge that?

Mr. Wilson: Misleading how sir?

Mr. Nienaber: You applied for an occupational license which will require you to deal with the public, and sell goods and services within the public, and report taxes and report income, and you intentionally, or for whatever reason, you say here this evening, you did not disclose all that, did you?

Mr. Wilson: No sir, I did not disclose all that because I told you the reason I misunderstood it.

Mr. Nienaber: You acknowledge that the response you gave to the occupational license application could in fact be misleading to the city when they were reviewing your application for an occupational license?

Mr. Wilson: No, I don't think that was misleading at all.

Mr. Nienaber: How could you say that failing to list two other felonies and failing to give the whole story could not be misleading?

Mr. Wilson: Because they were part of one. They were part of the main charge, that's how I how I saw it.

Mr. Nienaber: Which was all related to your operation of a retail business in the city of Covington?

Mr. Wilson: You are correct sir.

Mr. Nienaber: Mayor, may I approach? I have a list of nine exhibits that were obtained through criminal investigation, background investigation, and would like to become part of the record. The exhibits are: Exhibit 1 – Occupational License Application; Exhibit 2 – City of Florence Denial submitted by city coordinator, Josh Wice; Exhibit 3 – Wilson appeal; Exhibit 4 – Wilson Criminal History obtained through the background investigation; Exhibit 5 – Wilson Inmate summary; Exhibit 6 – Social Media Reports; Exhibit 7 - §110.04(f)(2)(3)(4)(5)(6)(7) Occupational License criteria that the city is required to examine and consider when reviewing an occupational license application; As well as, Exhibit 8 – Hearing Notice; and Exhibit 9 – Mr. Wilson's Criminal Citations with Report.

Mr. Wilson you received notice of this proceeding did you not?

Mr. Wilson: Yes sir.

Mr. Nienaber: So you don't feel that you were not given proper notice?

Mr. Wilson: Oh no, not at all.

Mr. Nienaber: Do you not agree and acknowledge that the crimes that you were charged with and plead guilty to reflect upon your ability or anyone's ability for that matter, to conduct a retail business in the general public?

Mr. Wilson: Absolutely not.

Florence City Council

Minutes: Tuesday, September 8, 2020

Mr. Nienaber: Explain why you don't believe that those crimes for which you plead guilty to and were charged with. Do not reflect on one's ability to operate a business, failing to file tax returns for example?

Mr. Wilson: It was the excise tax and all that store was just to buy goods. Um, when I say buy goods, it was to buy video games and it evolved into what all the other pawn shops we rebuying. Because they started coming to me, I would pay more. Bad decision, horrible decision and it just came in hordes. There were eBay sales, which the eBay sales were taxed already at the 6% of the state, so that was part of that.

Mr. Nienaber: Did you apply for an occupational license in the city of Covington?

Mr. Wilson: I believe I did, yes sir.

Mr. Nienaber: You believe you did?

Mr. Wilson: I believe because it was hanging on the wall.

Mr. Nienaber: And when you were indicated and charged, arrested and plead guilty, that occupational license was revoked, was it not?

Mr. Wilson: I'm sure it was.

Mr. Nienaber: You did not list that on your application did you? The occupational license that was revoked in Covington?

Mr. Wilson: Okay I am going to ask a question, is there a line for that, and is there a question for that on the form?

Mr. Nienaber: Yes.

Mr. Wilson: Because I didn't see it. Does it actually say have you had a revoked license? Because I am not aware of that. I am sorry, I don't have it, I didn't bring that with me.

Mr. Nienaber: Item 18: Has any person listed in Item 15, that's you, ever had an Occupational License or similar Business License denied, revoked or suspended in the City of Florence, Boone County, or any other City or State? And you put down no.

Mr. Wilson: I am not even sure, I'm sure it was revoked, the store was ended immediately.

Mr. Nienaber: And did you ever apply for an occupational license in the city of Erlanger?

Mr. Wilson: No, sir.

Mr. Nienaber: Never?

Mr. Wilson: I am trying to think, I didn't have anything in Erlanger, no.

Mr. Nienaber: But you operated a business in the city of Erlanger, you are still saying that you did not have a pawn shop outlet in Erlanger?

Mr. Wilson: Sir on my kids, I never had a pawn shop or any type of business like that in Erlanger that was not mine. I know that they tried to link them together, but that was not the case.

Mr. Nienaber: Mayor that's all I have of this witness. I would move to enter these exhibits and I will provide Mr. Wilson with a copy of them.

(Mr. Nienaber provided Mr. Wilson with a copy of Exhibits to review and the Exhibits were submitted into record.)

Do you have any objection to those exhibits being introduced into the record, Mr. Wilson?

Mr. Wilson: The only objection I would have is that I did not see any of these beforehand, the inmate summary, which is not a problem because it was perfect, there is no issues.

Mr. Nienaber: You agree that the occupational license application is accurate? You can look at it if you want.

Mr. Wilson: No I have read it a few times, I know exactly what you are talking about.

Mr. Nienaber: And the denial letter signed by Mr. Wice, the city coordinator, signed July 29, 2020 is accurate?

Mr. Wilson: Let me ask you, do you have anything in here that I owned multiple pawn shops, the one in Erlanger? That should be taken out, that is not the case.

Mr. Nienaber: The only reference to you owning a pawn shop in the city of Erlanger is the information compiled in the police investigative reports.

Mr. Wilson: So those we can just omit, correct?

Mr. Nienaber: You're objecting? You're saying it didn't happen? The police reports are inaccurate, as far as you're concerned anyway?

Mr. Wilson: Well no, they wouldn't be inaccurate. They can start charging with anything, but the actual outcome of what happened, I would ask you to look there. What I was actually charged with, and you will see that there was nothing in Erlanger was I charged with at all.

Mr. Nienaber: And your criminal history, that was taken from the public records.

Mr. Wilson: Yes sir.

Mr. Nienaber: And your inmate summary? You can, that would be exhibit 5.

Mr. Wilson: I'm sorry were you waiting?

Mr. Nienaber: Is that accurate?

Mr. Wilson: The inmate summary?

Mr. Nienaber: Yes.

Mr. Wilson: Oh yes sir.

Mr. Nienaber: Do you have any other reasons why you believe that your occupational license application was accurate other than what you have said here tonight and appeal, Exhibit 3 that you filed on August 17, 2020?

Mr. Wilson: I mean, just reiterating, how I perceived that application. Maybe yes I should have asked someone do I need to put this, the other two. Maybe this would have eliminated this step here. That was not the case. I was not trying to hide from it. I put the most severe one up there and I just assumed if there were other issues that you would contact me and ask me about those two, which I guess we are here now, asking about those two. I did explain to you those two other felonies, once I plead guilty to the plea deal that I took, I couldn't get those omitted, I just plead guilty to get it over with.

Mr. Nienaber: Anything else Mr. Wilson?

Mr. Wilson: Yes, yes. Um, the social media reports and everything in here are not 100% totally correct. Not that I believe the media these days, much at all, but I will tell ya, there was a lot of hype going on and they did try to link the two pawn shops together and that was never the case. I was only in charge of the one in Covington. I am not the same person. I made a bad decision for a very small part of time and um, boy do I regret it. But I should not have to pay for it for the rest of my life. I am 55 years old and I will end up working somewhere in retail. The opportunity I had, Mr. Grammas has taken a chance with me, and the state of Kentucky has taken a chance with me. The federal, everything, but you guys. And you guys are the ones that hold my future. I have a great store. It's a beautiful location. I have hired an accountant. I am not going to get sideways. I am not going to buy anything off the street, nor am I ever going down that trail again. That was terrible. That's pretty much it.

Mr. Nienaber: That's all I have Mayor.

Mayor Whalen opened the floor for questions from city council.

Councilmember Osborne inquired as to the two different dates, October 2 and October 9, for a Jury Trial in front of Judge Bartlett. Whether these events represented two different events or the

same event. Mr. Nienaber explained in 2011, the city of Covington Police became involved in an investigation which focused on a pawn shop at 26th and Madison, owned by Mr. Wilson. The investigation resulted in approximately thirty indictments. Many of those individuals plead guilty. Five did not and went to trial. The trial occurred over several weeks and focused on organized crime and “boosters”. Boosters are people that steal things and take to pawn shops to be sold. Councilmember Osborne inquired whether Mr. Wilson was subject to either of these two jury trials dates. Mr. Nienaber explained Mr. Wilson did not go to trial and plead guilty to three crimes: receiving stolen property over \$10,000.00 in value; receiving stolen property firearms; and failing to file excise tax returns. The charges were a result of the organized crime investigation which also implicated a pawn shop in Erlanger.

Councilmember Osborne inquired as to the date of January 12, 2011 on the crime summary exhibit. At that time, Mr. Nienaber explained Mr. Wilson was charged with failure to appear. In April of 2011, Mr. Wilson was charged with contempt of court and resisting arrest. The indictments for organized crime, etc. were in June 2011. The indictments for the receiving stolen property, receiving property over \$10,000.00, and receiving stolen property firearms occurred in April 2011. These are two different crimes. Mr. Nienaber explained when an individual is charged with receiving stolen property firearms, it does not matter if the stolen gun is \$50.00 or \$5,000.00. If an individual is dealing in stolen firearms, it is a felony. The stolen items included teeth whiteners and video games. For an individual to be charged with a felony, the value must exceed \$10,000.00. Mr. Wilson was charged with receiving stolen property over \$10,000.00 and that is a felony.

Councilmember Osborne asked Mr. Wilson what he had been doing since 2012. Mr. Wilson responded, “I went to prison for 2 years, um, I was in a camp, I fished and played softball and I’m not making that as a joke, that’s what I did for 2 years and of course lost a lot of weight. As soon as I got out, I delivered pizzas. Tried my hand at a warehouse job, couldn’t do it. I couldn’t watch the line, it made me ill. So I delivered pizzas and saved every penny I had. My parents let me live with them. I then went into liquidations, where I started buying truckload of merchandise and selling them by the skid load. I worked very hard at that and I took all the money from there and just saved it and keep escalating...then I got into mattresses. I have been in that business for 28 years, selling mattresses. I started selling with a friend over on Kentucky Drive as a warehouse and I saved my money until I could buy this place here, and that’s exactly what I have been doing the whole time. Work ethic, second to none, I work seven days a week, I still do.”

Mr. Wilson reiterated that he had nothing to do with the Erlanger pawn shop and he did not go to Trial for that. He does not want those charges to be considered.

Councilmember Carroll inquired as to whether Mr. Wilson had owned the Mattress Overstock since it had opened. Mr. Wilson stated prior to his ownership, another company in Louisville or Lexington owned the store. Mr. Wilson and his daughter went and got an ice cream around the first of the year and he noticed the store was going out of business. Mr. Wilson thought the location would be a wonderful place for a mattress store.

Councilmember Carroll inquired as to how many misdemeanors or felonies Mr. Wilson had been convicted of since 2011. Mr. Wilson stated there was none.

Councilmember Huff inquired as to an arrest in 2006 for nonpayment of child support. Mr. Wilson explained he did not pay his child support for one year while in Wisconsin. Since that time, he has paid his child support obligation in full.

Councilmember Winn questioned Mr. Wilson with regard to how long the criminal acts occurred at the pawn shop. Mr. Wilson stated maybe six months. While operating the pawn shop, Mr. Wilson stated he observed other pawn shops and noticed the merchandise in their windows. He kept turning people down and then began buying the stolen merchandise.

Mayor Whalen questioned as to how long these acts would have occurred if Mr. Wilson would have not been caught. Mr. Wilson replied approximately a month before being caught, he had a conversation with his wife. He realized he could not conduct a business buying stolen merchandise. When he initially began, he was in denial. Mr. Wilson continued stating pawn shops are seedy business and he was getting out, unfortunately not quick enough. He knew it was not right and he was dealing with mainly drug addicts receiving stolen merchandise including batteries, credit white strips and DVDs. Mr. Wilson opined other pawn shops would have the stolen merchandise in the front window. Unfortunately, he had a mentality of this is how you operate.

Councilmember Winn inquired whether the money was beneficial. Mr. Wilson replied, "No, the money was terrible". His funds were all "tied up". He kept buying and never was able to break even. He recalled the police believed there was money hidden somewhere and that was not the case. Mr. Wilson stated he spent two years of his life without his kids as a result of his choices.

Mayor Whalen stated the application received was incorrect. Mr. Wilson failed to provide all of the requested information and further failed to state he had an occupational license revoked or removed.

Mr. Nienaber explained the denial letter as written by Mr. Wice. Mr. Wilson failed to disclose felonies of which he was convicted, failed to file a tax return, and gave an incomplete and misleading application. Under Section 110.04, these are elements the city is to consider while reviewing an application. Those elements are documented in Exhibit 7.

Mayor Whalen stated the ordinance passed by city council is the ordinance which contains information for occupational licenses which the decisions are based upon.

Councilmember Froelicher questioned Mr. Wilson as to what the name of Mr. Wilson's liquidation company. Mr. Wilson stated Tri-State Liquidations which was part of Lashavio Construction. Councilmember Froelicher asked Mr. Wilson if he knew Andy. Mr. Wilson replied yes, Andy is a friend from school which allowed him to earn money selling home product liquidations.

Councilmember Aubuchon stated she believed Mr. Wilson had a good work ethic, however there was a lot of evidence which needed to be considered. As being stewards of the public and their trust, standards are in place for occupational licenses. Councilmember Aubuchon informed Mr. Wilson it is not that he was being singled out, it was whether he completed the application accurately and in a manner that was trustworthy. Reviewing the exhibits, the history was longer than a few months. Councilmember Aubuchon felt she was unable to take a gamble with citizens' trusts for someone that may have inappropriate business tactics. The information provided by Mr.

Wilson was misleading and inaccurate. Therefore, nothing personal against Mr. Wilson and strictly based on the merits of the application, Councilmember Aubuchon made a motion to uphold the denial of the occupational license.

Prior to a vote, Councilmember Huff asked Mr. Wilson how long he had been operating the mattress store. Mr. Wilson replied he took ownership in January.

Mayor Whalen asked whether there was a second to Councilmember Aubuchon's motion. Councilmember Osborne seconded the motion. Mayor Whalen requested a Roll Call Vote.

Prior to the Roll Call Vote, Councilmember Carroll expressed we are not all perfect and do not always make the right decision. The activities occurred almost a decade ago. Councilmember Carroll felt it was easy to make mistakes on the application and believed the city should have called him to allow him to correct the inaccuracies on the application. Councilmember Carroll stated he believed Mr. Wilson deserved a second chance and he would not agree with the denial.

Mayor Whalen stated the process for approval of an occupational license is set forth by the ordinance. Several occupational license applications are received and upon receipt are reviewed. Based on the information received on the application, that is how decisions for approval/denial are made. If an application is not completed truthfully and correctly, it is not feasible to call every applicant to verify their truthfulness. Therefore, should Mr. Wilson have had a question, there was an opportunity prior to completing the application for him to have asked. Mr. Wilson failed to ask. Decisions were based on less than complete information by Mr. Wilson and were based on the background investigation. While it has been ten years, decisions were made on the information received.

Councilmember Carroll inquired whether if Mr. Wilson completed the application at the city building. Mr. Wilson replied yes he did. He was operating the business and did not realize he needed an occupational license until someone stopped in and said he needed it. He believed his license from Kentucky was the only license he needed. Once he discovered he need a license, he immediately came down and filled out the application. Mr. Wilson stated most of the questions on the application are basic. He did not list all three of his felonies and only listed the main one. Mr. Wilson stated he was not the perfect citizen, he has flaws, and however, is not the same person he was. Mr. Wilson believed if there was an issue with the application, he would have been contacted and asked about his other two felonies. He did not realize the process would end how it did.

City Coordinator, Joshua Wice, responded to Councilmember Carroll's comments. The city processes approximately 75-100 to applications a month. Applications have been reviewed and approved with individuals having criminal convictions. The application completed by Mr. Wilson was dated March 3 and it is stamped received on March 4. Should Mr. Wilson have had questions when filling out his application at the finance counter, he could have asked the occupational license supervisor. Almost every application received by administration, regularly has an additional page attached with additional convictions on the application if necessitated. Question 19 on the application states "If more than one charge please attach the above information on each charge to an additional information sheet." Question 18, Mr. Wilson checked no, states if any person listed in Item 15, as Mr. Nienaber pointed out, Mr. Wilson, "...ever had an Occupational License or

similar Business License denied, revoked or suspended in the City of Florence, Boone County, or any other City or State?" Mr. Wilson checked no. Mr. Wice continued, whether Mr. Wilson had an occupational license revoked or not, he was charged for not having a pawn shop license in the city of Covington while operating a pawn shop. Finally, the staff of the city of Florence enforce the ordinance approved by city council. The occupational license has been in place for many decades. Mr. Wice stated whether one agrees or not, city staff will not call every applicant and ask why they lied on an application.

Mr. Wilson stated he was not clear where the pawn shop license came from. Mr. Wice informed Mr. Wilson it is in the police report for which Mr. Wilson previously stated is untruthful and that police made up charges against him. Mr. Wilson reiterated he never pawned.

Mr. Wice relayed Mr. Wilson had already admitted that he operated a pawn shop in the city of Covington and now has stated that he did not have a pawn shop in Covington. Mr. Wilson stated he wanted to clear up incorrect information and Mr. Wice was able to clarify that. Mr. Wice stated Mr. Wilson had already clarified the information.

Mr. Nienaber stated in Mr. Wilson's application that he had a pawn shop. Mr. Wilson reiterated it was a "pawn type shop".

Councilmember Huff stated Mr. Wilson did not fill out the application correctly and inquired as to what council was voting on, whether to approve the license, or ruling on whether he did not fill out the application to obtain the license.

Mr. Nienaber stated both. Mr. Wilson did not complete the application correctly. He withheld information and has acknowledged he withheld information. Mr. Nienaber stated council is permitted to deny an occupational license based on information Mr. Wilson provides in his application. At the bottom of the application, there is a clause that states "Statements made in this application are subject to verification and false or misleading statements may be cause for denial..."

In addition, Mr. Nienaber stated council is also responsible for determining whether Mr. Wilson should receive an occupational license. The criteria is clear. Mr. Nienaber stated, "The seriousness of the crime he committed, whether or not he has rehabilitated, whether or not the crime that he plead guilty to or was charged and convicted of, relates to the character of the business that he is getting involved in by virtue of being issued a license and that is a retail business. This is not an occupational license to run a dentist office, landscape business, he is out there selling products and he has demonstrated and if the council is inclined to accept that there has been no rehabilitation, or rehabilitation is risky, then council can deny him his license." Therefore it is both. Mr. Nienaber does not believe that the information given was a mistake. Mr. Wilson had every opportunity, and even testified that his answers were misleading. The answers provided were misleading. Mr. Nienaber further stated that if ever there was a charge relating to the characteristics required of operating a business, it is receiving stolen property. Mr. Nienaber stated he could not have picked a better example for said business.

Mayor Whalen stated it is the duty and obligation to review each application and issue licenses based on what is best for the interest of the community. The information provided by Mr.

Wilson in his application was incomplete. Mayor Whalen stated “Everybody deserves a second chance, but the second chance is lost when the application process is tainted.” There was an opportunity to disclose that information.

Councilmember Huff inquired as to whether Mr. Wilson would have been approved should he have disclosed the correct information. Mr. Wice replied no. Mr. Nienaber stated the information was not disclosed and we are not dealing with hypotheticals.

Councilmember Carroll inquired whether if this application was denied and Mr. Wilson completed a new application which was completed truthfully, would that application be approved and why or why not?

Mr. Wice opined if the application was for the same business and same applicant, no. The denial letter sent to Mr. Wilson and reiterated by Mr. Nienaber, identified specifically, “In accordance with City of Florence Code of Ordinances, Chapter 110.04(F) (2), the criminal record of an individual applying for a license shall be considered. This considerations includes all convictions of a felony or misdemeanor and any other crime related to operating a business with a criminal business practice.” Mr. Wice stated Mr. Wilson is operating a mattress liquidation business. Had he wanted to open another business, for example a bakery, the application possibly could be approved due to the nature of the business. As it relates to this business as a retail business and based on the criminal history, the application would be denied. As always, city council would be given the opportunity to overrule as set forth in the ordinance.

Councilmember Aubuchon stated to Mr. Carroll “You are unable to ignore what happened”.

Mayor Whalen expressed people can be rehabilitated. However, each application is reviewed due to the risks for the community and citizens of the city. Mayor Whalen requested a Roll Call Vote based on Councilmember Aubuchon’s motion. Councilmember Carroll, no; Councilmember Winn, yes; Councilmember Huff, yes; Councilmember Aubuchon, yes; Councilmember Froelicher, yes; Councilmember Osborne, yes. **Roll call recognized five yes votes, and one no vote, approving the denial of the occupational license.**

Councilmember Huff stated laws have been made with rules and the process is set. Councilmember Aubuchon reiterated Councilmember Huff’s statement. Councilmember Aubuchon stated it is about the process and not the person. Based on the vote, Mayor Whalen stated city council is upholding the denial of the occupational license.

MUNICIPAL ORDER MO-13-20:

Mayor Whalen read Municipal Order MO-13-20. A Municipal order directing the denial of an occupational license submitted upon application of Charles Wilson pursuant to City of Florence Code of Ordinances §110.04. Mayor Whalen called for a motion to approve Municipal Order MO-13-20. Councilmember Aubuchon motioned to approve Municipal Order MO-13-20 with a second from Councilmember Huff. Mayor Whalen requested a Roll Call Vote. Councilmember Carroll, no; Councilmember Winn, yes; Councilmember Huff, yes; Councilmember Aubuchon, yes; Councilmember Froelicher, yes; Councilmember Osborne, yes. **Roll call recognized five yes votes, and one no vote, approving Municipal Order MO-13-20.**

MAYOR'S REPORT:

- The City of Florence offices are open to in person business by appointment only. The County Clerk, Driver's License, and vehicle registration is closed in Florence. Citizens will need to go to Burlington. In order to minimize confusion, the Florence Government Center remains locked. A list of the telephone numbers are available on our website or contact (859)371-5491 for general information.
- Check our website at florence.ky-gov for upcoming events within the city. A virtual Pooch Fest will be held and the city will provide additional information as received.

RECOGNITION:

Mayor Whalen asked if any of the following desired recognition:

City Coordinator, Joshua R. Wice:

Mr. Wice did not have any additional information to share.

Department Heads:

Fire/EMS Chief, Scott Knoll:

Chief Knoll did not desire recognition.

Chief of Police, Tom Grau:

Chief Grau did not desire recognition.

Members of City Council:

None desired recognition.

Audience:

None desired recognition.

Florence City Council
Minutes: Tuesday, September 8, 2020

ADJOURNMENT:

There being no further business to come before the Council, Mayor Whalen called for a motion to adjourn. Councilmember Huff so moved, with a second from Councilmember Winn. **Councilmembers present voted aye**, the time being 7:18 p.m.

APPROVED:

/s/ Diane E. Whalen
Diane E. Whalen, Mayor

ATTEST:

/s/ Melissa Kramer
Melissa Kramer, City Clerk