



**Florence City Council  
Business Meeting  
Tuesday, September 14, 2021  
6:00 p.m.**

**MINUTES**

The City Council of the City of Florence, Kentucky, met in regular session on Tuesday, September 14, 2021, 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 five (5) members of council were registered present: Mel Carroll, J. Kelly Huff, David Osborne, Patricia Wingo, and Gary Winn. Absent was Dr. Julie Aubuchon (Vice-Mayor) (present at 6:03 p.m.).

Staff members present were: Assistant City Attorney, Thomas Nienaber; CFO/HR, Linda Chapman; Chief of Police, Tom Grau; Fire/EMS Chief, Rodney Wren; Public Services Director, Eric Hall; Business & Community Development Director, Joshua Hunt; City Engineer, Bill Viox; City Clerk, Melissa Kramer; Videographer, Spencer Foreman; and Police Officer, Darry Hutcherson.

The following were also present in the audience: Community Support Services Superintendent, Jeremy Kleier; Code Enforcement Officer, David Rose; Code Enforcement Officer, Mike Macaluso; Florence Police Department new police officer, Caleb Saalfeld; Family and Friends of the new Florence Police Department police officer, Caleb Saalfeld; Dress Homes Land Analyst, Alex Martin; Daughters of the American Revolution Boone County Chapter, Peggy Kennedy and Lynn Demi; Griffith Holdings LLC, Christina Griffith; and Thomas Judd, observer.

**APPROVAL OF MINUTES:**

Mayor Whalen called for a motion to approve the minutes of the September 7, 2021, special meeting. Councilmember Winn motioned to approve the minutes with a second from Councilmember Huff. **All councilmembers present voted aye.**

**OATH OF OFFICE:**

Tom Grau, Chief of Police, introduced Caleb Saalfeld, as the newest member of the Florence Police Department.

Chief Grau stated Caleb is twenty-four years old and currently resides in Dry Ridge, Kentucky. He grew up in Modesto, California and is a 2015 graduate of Fred Beyer High School. Caleb has a Bachelor of Science Degree from Ohio Northern University in Criminal Justice where he also played football for four years. Caleb is currently in the Navy Reserve and is the nephew of retired Florence Police Officer Dave Piper. Chief Grau stated the city is excited to be adding Caleb to the police department and Caleb will be leaving for the academy on Sunday, December 5. Prior to leaving for the academy, Caleb will be undergoing in-house training.

Mayor Whalen administered the oath of office and welcomed Caleb to the City of Florence.

**PROCLAMATION:**

Mayor Whalen called upon the Daughters of the American Revolution, Boone County Chapter, District 5, Peggy Kennedy and Lynn Demi. Mayor Whalen stated their chapter is named in the honor of Frontiersman Daniel Boone. The Boone County Daughters of the American Revolution also won first place trophy in the Memorial Day Shoe Box Float Competition this past year.

Mayor Whalen issued a Proclamation acknowledging September 17, 2021 through September 23, 2021, to be Constitution Week reading the following Proclamation into record:

***WHEREAS,** The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and*

***WHEREAS,** September 17, 2021, marks the two hundred and thirty-fourth anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention; and*

***WHEREAS,** It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and*

***WHEREAS,** Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through September 23 as Constitution Week.*

***WHEREAS,** the City of Florence recognizes and reaffirms the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties; and*

***NOW, THEREFORE, BE IT PROCLAIMED THAT, I,** Diane E. Whalen, Mayor of the City of Florence, Kentucky, and on behalf of the members of Florence City Council, proclaim September 17 through September 23, 2021 to be Constitution Week in the City of Florence, Kentucky.*

***IN WITNESS WHEREOF,** I have hereunto set my hand and caused the seal of the City of Florence, Kentucky, to be affixed hereto, this 14<sup>th</sup> day of September, 2021.*

**PROCLAMATION:**

Mayor Whalen issued a Proclamation proclaiming September as City Government Month and read the following Proclamation into record:

*WHEREAS, civics education in Kentucky schools is important to ensure future generations are engaged and involved in their local community and its governance; and*

*WHEREAS, elementary schools are a prime location for the introduction of local government principles and responsibilities; and*

*WHEREAS, involving and informing students of local government programs and duties can provide an opportunity for entire families to connect with vital city services and programs; and*

*WHEREAS, there are 416 cities in Kentucky and 55 percent of the state's population lives in a city; and*

*WHEREAS, City Government Month is a civics awareness campaign that educates elementary school students about city services by providing teachers resources for their classrooms; and*

*WHEREAS, the City of Florence has established initiatives such as the Youth in Government and the Student Ambassador programs to assist in the local government learning experience and City Officials regularly participate in local school events; and*

*WHEREAS, City Government Month calls on city officials to get involved in their local schools and in educating and engaging elementary school students in city government; and*

*WHEREAS, the KLC Board of Directors has declared September 2021 as City Government Month in Kentucky;*

*NOW, THEREFORE, BE IT PROCLAIMED THAT, I, Diane E. Whalen, Mayor of the City of Florence, Kentucky, and on behalf of the members of Florence City Council, do hereby proclaim September 2021 as "City Government Month" in the city.*

*IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Florence, Kentucky, to be affixed hereto, this 14<sup>th</sup> day of September, 2021.*

Mayor Whalen advised councilmembers the Superintendent of Boone County Schools contacted her and requested if any member of city council would like to participate in the "Principal for a Day Program" within the Boone County Schools. Councilmember Carroll encouraged fellow councilmembers to participate.

**DISCUSSION AND POSSIBLE FIRST READING ORDINANCE O-19-21:**

Mayor Whalen called upon Fire/EMS Chief, Rodney Wren, with regard to a facility agreement between the State of Minnesota MMCAP Infuse and the City of Florence.

Chief Wren stated the agreement and proposed ordinance would be in accordance with the City of Florence Fire/EMS Department's purchasing of medical supplies for their advanced life support ambulances. Currently, the department is purchasing their supplies through the hospital which

purchases the supplies from Cardinal Health. The department then purchases the supplies from the hospital at an increased price. Chief Wren stated that entering into the agreement directly with Cardinal Health would be beneficial and save money for the department.

Mayor Whalen advised an ordinance would need to be submitted to allow the department to enter into an agreement with the MMCAP Infuse. Councilmember Winn made a motion to take action on Ordinance O-19-21 with a second from Councilmember Huff.

Mayor Whalen read Ordinance O-19-21. An Ordinance relating to Authorization for the City of Florence, Kentucky, a Kentucky Home Rule City, by and through its Florence Fire/EMS Department, to establish, participate, and Administer as a Local Public Purchasing Unit, a Facility Agreement by and between the State of Minnesota MMCAP Infuse and the City of Florence, Kentucky Florence Fire/EMS Department, and approving this Facility Agreement serving as a Cooperative Purchasing Agreement.

The purpose of this Ordinance is to authorize the City to enter into a Facility Agreement for the purpose of purchasing pharmaceutical wholesaler services, products, medical supplies and distribution services.

Councilmember Aubuchon requested clarification of Cardinal Health and whether Cardinal Health was part of the MMCAP. Chief Wren stated the application must be submitted to Cardinal Health to become a member of the entity.

Mayor Whalen called for a motion to approve the first reading of Ordinance O-19-21. Councilmember Osborne motioned to approve, with a second from Councilmember Carroll. **All councilmembers present voted aye.**

#### **SECOND READING ORDINANCE O-16-21:**

Mayor Whalen read Ordinance O-16-21. 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. (2021)

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 one-tenths cents (\$.181) per one hundred dollars of value on real property and a tax of twenty-seven and two-tenths cents (\$.272) 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 five-tenths cents (\$.065) 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, 2021. Any such taxes remaining unpaid after January 1, 2022, 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, 2022, 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, 2021. Any such taxes paid after January 31, 2022, 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, 2022, until paid. The Ordinance establishes corresponding due dates, discounts and penalties for subsequent years.

Mayor Whalen called for a motion to approve the second reading of Ordinance O-16-21. Councilmember Huff motioned to approve, with a second from Councilmember Carroll. **All councilmembers present voted aye.**

**SECOND READING ORDINANCE O-5-21:**

Mayor Whalen read Ordinance O-5-21. An Ordinance annexing certain territory consisting of a parcel of approximately 23.0348 acres located at the northeastwardly right-of-way of Weaver Road, approximately 20 feet southwest of Morgan Trace Drive within the Saddlebrook subdivision, adjacent to the city limits. (Weaver Road Properties, LLC)

This Ordinance annexes and makes a part of the City a tract of approximately 23.0348 acres located at the northeastwardly right-of-way of Weaver Road, approximately 20 feet southwest of Morgan Trace Drive within the Saddlebrook Subdivision, adjacent to the City limits. This annexation is in response to a request by Weaver Road Properties, LLC, the owner, to have the property become part of the City. The annexation will be complete upon second reading and publication of this Ordinance. After annexation the property shall be zoned Residential Planned Development District (RPD).

Mayor Whalen called for a motion to approve the second reading of Ordinance O-5-21. Councilmember Winn motioned to approve, with a second from Councilmember Aubuchon. **All councilmembers present voted aye.**

**SECOND READING ORDINANCE O-17-21:**

Mayor Whalen read Ordinance O-17-21. An Ordinance Adopting and Approving a Zoning Map Amendment from Suburban Residential One (SR-1) To Suburban Residential Two/Planned Development for the 3.0733 acre site located on the north/east side of Weaver Road, approximately

520 feet south of the Weaver Road/Ascot Drive Intersection, to the immediate south of the properties at 15 through 21 Tattersall Lane, and to the immediate west of the properties at 901 through 923 Dapple Grey Drive, Boone County, Kentucky (Annexation Pending); and for the Request of The Drees Company – Matt Mains (Applicant) for Weaver Road Properties, LLC (Owners) for a Zoning Map Amendment from Suburban Residential One (SR-1) and Suburban Residential Two (SR-2) to Suburban Residential Two/Planned Development (SR-2/PD) for the 16.5410 acre site located at 903 Weaver Road, and between the properties at 8986 and 9034 Evergreen Drive, Boone County, Kentucky (Annexation Pending), to allow attached and detached dwelling units. (Weaver Road Properties, LLC)

This Ordinance adopts and approves a Zoning Map Amendment from Suburban Residential One (SR-1) to Suburban Residential Two/Planned Development for a 3.0733 acre site located on the north/east side of Weaver Road, approximately 520 feet south of the Weaver Road/Ascot Drive Intersection, to the immediate south of the properties at 15 through 21 Tattersall Lane, and to the immediate west of the properties at 901 through 923 Dapple Grey Drive, Boone County, Kentucky; and adopts and approves a Zoning Map Amendment from Suburban Residential One (SR-1) and Suburban Residential Two (SR-2) to Suburban Residential Two/Planned Development (SR-2/PD) for a 16.5410 acre site located at 903 Weaver Road, and between the properties at 8986 and 9034 Evergreen Drive, Boone County, Kentucky, in conjunction with annexation of both parcels into the City of Florence, Kentucky, to allow attached and detached dwelling units.

Mayor Whalen called for a motion to approve the second reading of Ordinance O-17-21. Councilmember Wingo motioned to approve, with a second from Councilmember Huff. **All councilmembers present voted aye.**

#### **SECOND READING ORDINANCE O-18-21:**

Mayor Whalen read Ordinance O-18-21. An Ordinance Adopting and Approving a Change in a Concept Development Plan in a Commercial Two/Planned Development (C-2/PD) Zone for a 2.78 acre site located on the east side of Bill Wentz Drive, between the properties located at 8509 and 8519 U.S. 42, Florence, Kentucky, to allow a car wash and a Restaurant. (Hinkebein/Gomez)

The effect of this Ordinance is to allow a car wash and a restaurant in a Commercial Two/Planned Development (C-2/PD) zone.

The full text of Ordinance No. O-18-21, including its exhibits, is available for examination in the office of the City Clerk of the City of Florence, Kentucky, in the Florence Government Center, 8100 Ewing Blvd., Florence, Kentucky, during regular office hours.

Mayor Whalen called for a motion to approve the second reading of Ordinance O-18-21. Councilmember Huff motioned to approve, with a second from Councilmember Aubuchon. **All councilmembers present voted aye.**

**FORECLOSURE HEARING & CONSIDERATION OF RESOLUTION 003-2020 FROM THE FLORENCE CODE ENFORCEMENT BOARD:**

Mayor Whalen called upon Assistant City Attorney, Thomas Nienaber, for presentation of the hearing.

Mr. Nienaber informed council the purpose of the hearing was to establish a record and act upon a recommendation for civil action initiated against 7718-7736 U.S. Highway 42, Florence, Kentucky for code enforcement violations pursuant to City of Florence Ordinance O-10-16, City of Florence Ordinance O-33-05, and pursuant to KRS 65.8805. Mr. Nienaber stated under the city's code enforcement ordinance, the city council acts upon the recommendation of the Code Enforcement Board.

Mr. Nienaber informed council that on October 7, 2020, the City of Florence Code Enforcement Board had a hearing. At the hearing, based upon the recommendation of Jeremy Kleier, the Code Enforcement Board made a recommendation to city council as to whether or not civil action should be initiated in order to address the code enforcement violations against Griffith Holdings, LLC. At the hearing on October 7, 2020, Griffith Holdings, LLC did not appear, nor make any defense, or request an appeal following the hearing.

Following the hearing, Griffith Holdings, LLC sought legal representation and requested the matter be held in abeyance. Counsel for Griffith Holdings, LLC and the city began negotiations which later ceased due to Covid-19 and lack of communication from their counsel. In June of 2021, the city attorney attempted to initiate the negotiations again with Griffith Holdings, LLC without success. Therefore, the matter has been brought before city council.

Mr. Nienaber informed council they may act upon the recommendation of the Code Enforcement Board in full, find no violations exist, or find a foreclosure action be instituted and the property be sold to satisfy the outstanding fines. As the Code Enforcement Board has criteria to follow, city council also has criteria which must be followed. Under the city's code enforcement ordinance, there are six elements which must be found to determine the course of action:

1. Whether or not the violator, Griffith Holdings, LLC, was given proper notice of the violations as required under the City of Florence Ordinance and by the Kentucky Revised Statutes.
2. Whether seeking civil action against the violator, Griffith Holdings, LLC, would be an appropriate course of action.
3. Whether or not, Griffith Holdings, LLC has demonstrated an indifference or disregard for the Code Enforcement Ordinances of the City of Florence.
4. Whether or not the violations in place constitute a danger to the health and welfare of residents in the vicinity.
5. Whether or not the condition of the property would materially interfere with the peaceful enjoyment of adjacent property owners.
6. Whether or not the violations have existed over a period of time and that there are at least three convictions of the same violation.

Mr. Nienaber identified the six exhibits provided to councilmembers and entered the following exhibits into record:

- Exhibit 1 – Notice of Hearing;
- Exhibit 2 – Jeremy Kleier August 24, 2020 Memorandum;
- Exhibit 3 – Lien Summary;
- Exhibit 4 – Lien History with Cumulative Financial Summary;
- Exhibit 5 – Code Enforcement Board Resolution;
- Exhibit 6 – Fred H. Summe Title Report;

In addition, Mr. Nienaber identified and entered into record Exhibit 7 – Violations Summary with highlighted notations dated September 2, 2021.

Mr. Nienaber called the first witness, Jeremy Kleier, Community Support Services Superintendent. Mayor Whalen swore in the witness, Jeremy Kleier.

Mr. Nienaber: State your full name and position with the City of Florence.  
Witness Kleier: Jeremy Kleier, Community Support Services Superintendent.  
Mr. Nienaber: With the City of Florence, correct?  
Witness Kleier: With the City of Florence yes.  
Mr. Nienaber: How long have you been in that position?  
Witness Kleier: Going on twenty-two years.  
Mr. Nienaber: Did you appear before the Florence Code Enforcement Board on  
October 7, 2020?  
Witness Kleier: Yes, I did.  
Mr. Nienaber: And was the proper notice of that proceeding given to Griffith  
Holdings?  
Witness Kleier: Yes, it was.  
Mr. Nienaber: And Exhibit “1”, is a copy of that notice, correct?  
Witness Kleier: That’s correct.  
Mr. Nienaber: And did you prepare a report, as required by law, to submit to the  
Code Enforcement Board?  
Witness Kleier: Yes, I did.  
Mr. Nienaber: And that report is identified as Exhibit “2”, is that correct?  
Witness Kleier: That’s correct, yes.  
Mr. Nienaber: It’s dated August 24, 2020?  
Witness Kleier: Yes.  
Mr. Nienaber: What is that report and recommendation, Jeremy?  
Witness Kleier: That is a report showing that the property meets requirements for  
foreclosure.  
Mr. Nienaber: And what was your ultimate conclusion and recommendation to the  
Code Enforcement Board in your August 24, 2020 report?  
Witness Kleier: To seek foreclosure on the property.



Mr. Nienaber: Did your report cover the six criteria that I mentioned in my opening statement?

Witness Kleier: Yes it did.

Mr. Nienaber: Is that your opinion and conclusion as we stand here today?

Witness Kleier: Yes.

Mr. Nienaber: And is it your recommendation that city council initiate foreclosure and collection proceedings against Griffith Holdings?

Witness Kleier: Yes it is.

Mr. Nienaber: Attached to your Exhibit 2 report, there is a timeline and that timeline starts May 31, 2005 and it goes through February 2021. What in a nutshell does that timeline represent?

Witness Kleier: In a nutshell, it is a complete history of code enforcement violations and action we have taken against this property.

Mr. Nienaber: Exhibit "3" is a list of liens that have been filed against Griffith Properties?

Witness Kleier: Yes.

Mr. Nienaber: And that's the property located at 7718 US Hwy 42?

Witness Kleier: Correct.

Mr. Nienaber: And Exhibit "3" is two pages long, correct?

Witness Kleier: Yes.

Mr. Nienaber: Those liens amount to twenty-two as I count, is that correct?

Witness Kleier: Yes, that's correct.

Mr. Nienaber: Are those liens still against the property?

Witness Kleier: Yes.

Mr. Nienaber: Has Griffith Holdings LLC attempted to pay any of those liens?

Witness Kleier: No.

Mr. Nienaber: Has anyone from Griffith Holdings contacted you to make arrangements for payment of any of those liens?

Witness Kleier: No.

Mr. Nienaber: And as we sit here tonight, those liens are still against the property?

Witness Kleier: That's correct.

Mr. Nienaber: Exhibit "4" is a summary of the liens that have been filed?

Witness Kleier: Correct.

Mr. Nienaber: And there are several columns in that the date, the citation, a description, the citation amount and the city lien fee, is that correct?

Witness Kleier: Correct.

Mr. Nienaber: If I were to ask you with respect to each one of these citations outlined in Exhibit 4, would this report accurately summarize your testimony?

Witness Kleier: Yes it would.

Mr. Nienaber: Are those liens currently against the property?

Witness Kleier: Yes.

Mr. Nienaber: As it shows at the end of Exhibit 4, as of this month, there is \$18,885.48 in total liens. Is that correct?

Witness Kleier: Yes.

Mr. Nienaber: And that does not include attorney's fees or costs incurred by the City of Florence since the last lien was filed in August of 2021?

Witness Kleier: Correct.

Mr. Nienaber: I would draw your attention to Exhibit 5. And that represents a Resolution Recommending Foreclosure entered by the Code Enforcement Board in October 2020, is that correct?

Witness Kleier: Correct, yes.

Mr. Nienaber: And that is the Resolution that the Code Enforcement Board acted upon on your recommendation?

Witness Kleier: Correct.

Mr. Nienaber: And Exhibit "6", is a copy of the title report, that is the title report that I received from Mr. Summe who does our title reports, and I would like to make that part of the record. That's all I have with this witness, Mayor.

Mr. Nienaber called the next witness, Code Enforcement Officer, Mike Macaluso.

Mr. Nienaber clarified the Title Report by Fred Summe is Exhibit 6 and the last exhibit, is Exhibit 7. There is not an exhibit 8 as previously identified.

Mayor Whalen swore in Officer Macaluso.

Mr. Nienaber: Mike, state your name and occupation with the city?

Officer Macaluso: Mike Macaluso, I am a Code Enforcement Officer with the City of Florence, Kentucky.

Mr. Nienaber: Did you have occasion to recently go out and look at the property located at 7718-7736 US Highway 42?

Officer Macaluso: Yes sir.

Mr. Nienaber: That's the property that we are talking about that Jeremy spoke about, correct?

Officer Macaluso: Correct.

Mr. Nienaber: Did you go through the exhibit that Jeremy had prepared that outlined the date, the citation number, and the nature of the violation?

Officer Macaluso: Correct.

Mr. Nienaber: I see in that report, is that Exhibit 8(i.e. "7")?

Officer Macaluso: Yes sir.

Mr. Nienaber: I see in that report there are some yellow highlights?

Officer Macaluso: Yes sir.

Mr. Nienaber: What are those yellow highlights?

Officer Macaluso: So, those highlights are my latest inspection of the property which happened on Monday, this Monday. I went out and inspected the property and highlighted every violation which still exists on that property.

Mr. Nienaber: If you went through this list, Exhibit 8(i.e. "7"), every one that is still highlighted in yellow, as we speak tonight, is still there?

Officer Macaluso: Correct.

Mr. Nienaber: They have not been remedied?

Officer Macaluso: As of Monday, they have not been fixed.

Mr. Nienaber: Has anyone from Griffith Holdings contacted you to make arrangements to fix those?

Officer Macaluso: Ms. Griffith called me last week, we, myself and Jeremy, met on the property. Other than that, there has been no arrangements at all to fix.

Mr. Nienaber: So no effort has been made as far as you know that any of those, have...

Officer Macaluso: Of the highlighted areas,

Mr. Nienaber: Yes.

Officer Macaluso: No.

Mr. Nienaber: Have you got some pictures, do you have pictures to document these?

Officer Macaluso: I have.

Mr. Nienaber: Are those available here?

Mayor Whalen clarified Exhibit "7" is not Exhibit "8". Mr. Nienaber updated the exhibit to reflect Exhibit "7".

Photographs taken by Officer Macaluso of the property were displayed. Officer Macaluso identified the first photograph and stated an entranceway was removed and there was new concrete. The entrance had three windowsills which were boarded over and the structure of property had been changed. Siding was completely covered.

Mr. Nienaber inquired whether permits were obtained. Officer Macaluso replied no.

The next photograph identified another window covered up with no permit obtained. A CO2 tank had been installed on the side rear part of the Brickhouse Restaurant with no permit or proper screening.

Photographs of the rear of the property showed windows with construction inside and no Tenant Finish Permit had been filed. Officer Macaluso stated a Tenant Finish Permit would need to be obtained and the only permit obtained was for adjacent properties. Additional windows were installed and the Tenant Finish Permit for which was obtained is for the interior of the building only. No exterior renovations can be made. Officer Macaluso stated exterior renovations to the property are ongoing without the proper permits. Additional windows installed and renovations to the exterior. He stated the basic structure to the building has been altered.

Officer Macaluso further stated the paint structure itself is the wrong paint color. He has correspondence the Boone County Planning Commission documenting the wrong paint color. The district allows for a warm gray. The Boone County Planning Commission has informed Griffith LLC through numerous emails that the paint color needs to be changed to be in conformity with the district.

Photographs of additional renovations to the property were displayed including a deck from the structure which was removed.

Councilmember Aubuchon inquired with regard to the removal of the deck and a permit. Officer Macaluso stated any renovations to an exterior commercial property must be permitted.

Councilmember Osborne inquired whether a building permit had been obtained to cover the windows. Officer Macaluso stated no. He stated a Tenant Finish Permit had been obtained which is only for the renovations on the interior of the building. There were no permits obtained for any of the work performed on the exterior of the buildings. Officer Macaluso confirmed with the Building Department that no permits were obtained.

Councilmember Osborne believed it was potentially a fire hazard to have the windows boarded up. Officer Macaluso stated the Fire Marshal would need to comment with regard to the fire hazard and exits within the building. However, if the proper permit was obtained, it would also be clarified in the building permit.

Officer Macaluso identified a photograph with a red dumpster. Per the City of Florence Franchise Agreement with Rumpke, any kind of waste collection or recycling, must be Rumpke. The dumpster on the property is not labeled as Rumpke. Rumpke provides service to the property. Officer Macaluso stated Ms. Griffith did inform him last week that the dumpster was her personal dumpster, but was unable to provide proof of ownership. Officer Macaluso stated the dumpster had been there for quite some time. Therefore, he had to cite the property for an unlicensed dumpster.

Officer Macaluso identified numerous photographs of pavement in disrepair. The road next to Mai Thai is a private drive, which is owned by Griffith Properties, and was temporarily patched. Since, the road has fallen into such a disrepair, he has recommended the road must be replaced from the surface up. The violation remains and additional areas of the property remain in disrepair. The curb from the asphalt to the sidewalk on the entire property is in disrepair and falling in due to the age.

Officer Macaluso identified his handwritten notes on Exhibit 7 with regard to the property. He made notations with regard to violations including the parking lot, minor site plan, paint on windows and doors beginning to flake, and the red dumpster.

Mr. Nienaber: Mr. Macaluso, based upon your inspection experience of the property, is it your opinion that the property materially interferes with the peaceful enjoyment of adjacent property owners and/or represents a present danger to the public, health, safety and welfare?

Officer Macaluso: In my opinion it does.

Mr. Nienaber: Do you believe that these conditions have existed for an excessive period of time?

Officer Macaluso: Yes.

Mr. Nienaber: Have there been more than three convictions of the same violation?

Officer Macaluso: Yes.

Mr. Nienaber had nothing further at that time.

Mayor Whalen opened the floor for questions by councilmembers. None responded.

Mayor Whalen called upon Christina Griffith of Griffith Holdings LLC to present her case. Mayor

Whalen swore Christina Griffith in.

Ms. Griffith stated, “There is a building permit, Mike Martin, I believe has been the gentleman I’ve been talking with. He has come out and inspected the property. He has plans that were drawn up by PCA Architect. They’re stamped plans and I have the permit, I did not realize I should have brought it, but I do have the permit hanging there. So I’m uncertain as to, there’s a tenant finish and there’s also a building permit that I have. And it has plans, it has like the windows had to be fire rated and that’s why some of those windows were taken out because of the apartments on top. There was like an imaginary line drawn and based on this imaginary line how far the building was from another building we had to put fire rated windows in or we had to get rid of so it’s all on those plans, so I’m not quite sure where that is. Also, I had just inherited this piece of property and I understand that it goes back to 2005.”

Mayor Whalen asked Ms. Griffith when she inherited the property. Ms. Griffith replied summer of 2019 when Covid “kicked in”. Mayor Whalen clarified Covid was 2020.

Ms. Griffith continued, “I really did not know how to handle certain things. I’m still kind of new at trying to figure it all out. I thought I had figured out. Oddly enough, we are talking about this warm versus cool gray. I went to Sherwin Williams. They gave Todd Morgan a piece of paper that said it is a warm gray. A cool gray would have blues and greens in it and a warm gray would have reds and yellows in it and that gray has reds and yellows in it and Sherwin Williams with a letter that I sent Todd Morgan says that it is a warm gray. So there’s things that I’m still trying to figure out, how to handle them. Again with Covid, I’ve lost a lot of money on this property. I have tenants that have not been able to pay. I’ve had people that I can’t get to come to work on it. I met with Mike on two Fridays ago, Monday, or Friday, I can’t remember. Trying to figure it out and I felt like the conversation we had, he had already made up his mind. It didn’t go well. I wanted to fix this stuff. Which we fixed a lot of this stuff, not the concrete because we are not there yet. But we in good faith were trying to handle this. Again, its piece of property that was a hot mess when I inherited it and I’ve been trying to do what I can. So, this is not my fulltime job. My full time job is a high school teacher at Boone County High School. So, I’m doing both things.”

Mr. Nienaber requested Officer Macaluso clarify with regard to the plan from the architect. Officer Macaluso stated the plan from the architect is a blue print. Officer Macaluso stated, “There is a difference between a plan and a permit. A plan tells you this is what I am going to do. A permit tells you this is what the county is going to allow you to do. She has a signed blue print/plan that is hanging. But at the Boone County Planning Commission and the Building Department, there are not any signed permits as of a week ago. There is a Tenant Finish Permit which was approved for the interior renovation but that does not include the exterior part of that property.”

Officer Macaluso stated with regard to the paint, “That is correct, she has sent the planning commission documentation from Sherwin Williams and the planning commission, I don’t have it with me, but years ago told her that it was their determination that that was incorrect. Sherwin Williams is entitled to their opinion, but to their best of knowledge, it is incorrect. Todd Morgan did forward us that email. I do have that email, I can pull it up if you would like to see it. It was some time ago. This has been a discussion for quite some time and it has been their understanding from day one that the color that she chose, would not work and it was communicated through an

email that per the planning commission that the color was not acceptable.”

Ms. Griffith stated, “That was after I painted it, however, and I get it, I was supposed to get a permit, didn’t realize that and I tried to rectify it when they said it was a cool gray. But a warm gray is a warm gray is a warm gray. I mean you can’t dispute the color wheel. The color wheel says this side of the color wheel is warm and this side of the color wheel is cool. In the formula, it’s a warm gray formula. Sherwin Williams, who is clearly an expert in paint, says it’s a warm gray. I don’t understand how it’s not. It’s not an opinion. It either is or it isn’t. I think it is, so we have been going around and around on this and I don’t understand how we keep going around on this.”

Mayor Whalen inquired whether Ms. Griffith had anything else she would like to share.

Councilmember Osborne thanked Ms. Griffith for attending the meeting. He was very concerned with the electrical issues at the building. Ms. Griffith replied there was no electrical issues as there is no electric to the building. Councilmember Osborne stated there was a violation which cited unsafe electrical outlet.

Ms. Griffith replied the electric had been turned off and the outlets which were mentioned have been removed. Ms. Griffith stated the electrical was off at the big box from Duke Energy and she stated there were no live wires in the building.

Mayor Whalen questioned with regard to the date referencing the outlets. Officer Macaluso stated the electric he was citing for was for four-five receptacles on the exterior of the property which had bare copper wires exposed. Whether the wires were energized or not, he has to proceed with caution and believe they are. When he met on site, there were interior plastic plates covering the outlets and is hopeful it is a temporary fix. He did not believe the plastic plates were designed to be used outside. One was an exterior light on the Brickhouse. Officer Macaluso has been in contact with the Brickhouse and they apologized and replaced the light after a vehicle went through the building. Officer Macaluso stated as of right now there are no bare wires that he can see, but is concerned with the interior plastic plates on the exterior of the property covering the bare wires.

Councilmember Osborne inquired with regard to obtaining a permit and inspected by an electrician for electrical work. Officer Macaluso replied affirmatively as an inspection would have been done through the building department. Ms. Griffith stated the property had been inspected.

Councilmember Osborne asked whether the property was ever inspection by an inspector for electrical. Officer Macaluso stated an inspection would be under a permit and since there is not a permit, he would state “No.”

Ms. Griffith replied, “And it has been. We have a permit. The electrical inspector has been out there. We have a stamp for the electrical inspection. We have a stamp for the plumbing inspection. I’m really uncertain of, I have the yellow tag that permits it, I have the stamp on the architectural drawings, when after we had our conversation that Friday, I called the gentleman in the planning and zoning and he said you’re covered. You’ve got it and that he would call you (speaking to Officer Macaluso) and talk to you about it.”

Mayor Whalen asked who she spoke with. Ms. Griffith believed it was Mike Martin the building inspector and stated he had been to the property several times.

Officer Macaluso stated he spoke with Mike Martin and he had no knowledge renovations were ongoing.

Ms. Griffith stated she has paperwork inside the building from where he has inspected the building with his notes.

Councilmember Osborne inquired where she obtained a permit from. Ms. Griffith stated she had received a permit from Boone County.

Mayor Whalen asked Officer Macaluso whether there was a building permit. Officer Macaluso stated he contacted the building department and they were verifying whether a permit had been obtained. However, they had no knowledge of the ongoing renovations. Officer Macaluso stated she did have a Tenant Finish Permit, but that is for the interior work only, no exterior work.

Ms. Griffith stated, “When we turned in the plans, I mean, they, Ryan who is part of PC Architect, reached out to Mike Martin and they talked about where the fire wall, this imaginary line, and what windows had to be fire rated, and what windows didn’t have to be fire rated. What windows we could get rid of because there was going to be a laundromat on the bottom. We did everything that and the plans are stamped approved by Boone County.”

Mayor Whalen stated Ms. Griffith did not have a building permit she had plans. Ms. Griffith interrupted and stated, “I do have a building permit. It’s on a yellow sheet of paper. It says building permit on it.”

Councilmember Huff asked if she brought the permit with her. Ms. Griffith replied she did not and stated she could get the permit and return.

Mr. Nienaber questioned Ms. Griffith:

Mr. Nienaber: Ms. Griffith did you receive citations for payment in disrepair on August 6, 2019; January 13, 2020; February 10, 2020; February 26, 2020; March 11, 2020; 8/21/20; 9/4/20; 9/14/20; and 9/29/20?

Witness Griffith: Most of those I did not receive.

Mr. Nienaber: Did you receive those citations?

Witness Griffith: Some of them.

Mr. Nienaber: Did you do anything to fix the parking lot?

Witness Griffith: Yes.

Mr. Nienaber: What did you do? You saw the pictures that Mr. Macaluso just presented.

Witness Griffith: We tried to patch it and we, I have lack of money because of Covid and lack of people being able to work because of Covid. I cannot get anyone to get out there and work.

Mr. Nienaber: Ms. Griffith, do you have a red unauthorized dumpster on your

property as we speak today?

Witness Griffith: It is my dumpster. I was told that if it was my dumpster as the contractor that I was allowed to have it.

Mr. Nienaber: Were you cited on February 27, 2020, March 5, 2020, and March 13, 2020 for having that dumpster there unauthorized and illegally?

Witness Griffith: Not to my knowledge, no.

Mr. Nienaber: So if Mr. Kleier said that those citations were issued and Mr. Macaluso said those citations are issued, they would be wrong?

Witness Griffith: I don't know whether they were issued or not. I would not say that they are wrong. I'm telling you, I did not receive them. I received several citations through the bank, Heritage Bank, because I did not know. Now I went in the summer of 2019 to make sure when I found in my father's estate that there was a letter. I spoke to Jeremy Kleier and gave him my new address and still, everything was sent to my father's address. I do not want confrontation. I want to be able to handle this, it has been very difficult. I feel like we are speaking two different languages because when I try to get something resolved, I think I'm doing the right thing and its again, were speaking two different languages. I don't know how. Now I can tell you before we keep going on, I have made the decision to sell the property because I cannot do anything right according to the code enforcement people. And I have tried over and over again and I've only got so much money. I do not have endless pots of money. So, I have two people coming to look at it next week. It will hopefully be sold sometime soon."

Councilmember Aubuchon asked how many buildings were on the property. Ms. Griffith replied the property has four buildings.

Councilmember Aubuchon asked how many tenants were currently at the property. Ms. Griffith stated there are two building which have tenants in them and the other two buildings are vacant.

Councilmember Aubuchon asked who the current tenants were. Ms. Griffith replied the Brickhouse. The Brickhouse has begun the process to obtain a permit for the tank on the outside of the building and for the stickers in the window. Ms. Griffith stated another tenant is Century 21. She recently signed authorization for them to obtain their sign permits. Ms. Griffith stated there is also a hair salon and Mike Martin, State Farm Agent.

Councilmember Aubuchon asked with regard to the concrete repair. Ms. Griffith stated it was the intent to replace with a handicap ramp upon completion of the building. However, she had difficulty obtaining anyone to work during Covid and she is hopeful to sell the building.

Councilmember Carroll asked Ms. Griffith whether she had posted the property with a real estate agent as a listing. Ms. Griffith stated she spoke with an Eric Fagan who has other commercial listings on Mall Road in Florence.

Councilmember Carroll asked Ms. Griffith whether she had entered into a contract with him to sell the property. Ms. Griffith stated, "No." She stated they would be meeting the next day and she was trying to sell the property without a realtor because the realtor fee would be enormous on a property worth \$800,000.



Councilmember Aubuchon asked Ms. Griffith if she had ever come to the code board. Ms. Griffith replied that she had come to several and she thought they had been taken care of. Ms. Griffith stated she had come to the code board in August on another piece of property she owns.

Councilmember Aubuchon asked Ms. Griffith what her intent was with the property and the ongoing renovations. Ms. Griffith stated, “Nobody really wants to walk upstairs to an office or they don’t want their clients to, because those two have been empty for, I don’t know, I know my father and his business partner owned it forever, and they just couldn’t get people up there. So I had reached out to Boone County, to their planning and zoning and asked if I could put apartments up there and they said because it was in the corridor, whatever ever corridor it was in, apartments were allowed, and so I was planning to put four apartments on the second floor and a laundromat on the first floor. And that’s where that fire rated windows came in, because now that it was going to be residential, we had to have, again, there was this imaginary line that they had to draw and certain windows based on how far they were from the other building had to be fire rated.”

Councilmember Aubuchon asked if that was the building in the back. Ms. Griffith replied, “It is the building in the back. Well, there’s kind of two in the back. The one we had hoped to do, but hadn’t started. The other one we had started.”

Councilmember Aubuchon inquired with regard to the one building which had no renovations. Ms. Griffith stated she had an architect that was going to draw up the plans but wanted to finish what was started. Both buildings are vacant and the two in the front have tenants.

Councilmember Huff asked how many rental properties Ms. Griffith owned. Ms. Griffith replied, “When my father passed away he left me three commercial properties and then I had three, I did not ever have them in this corridor of Florence. Mine was in Erlanger. The other one I referred to about, I thought I was coming to handle all the citations and it wound up being one and now apparently can’t contest it because I’m out of, whatever. So that one, and one in Independence.”

Mayor Whalen asked where her other properties in Florence were. Ms. Griffith replied, “The corner of 42 and Ewing, and Main Street, and then further out on US 42.”

Mayor Whalen asked if at Village Drive. Ms. Griffith replied, “Yes and that’s the one I thought I was contesting all the fines. I showed up and completely misunderstood that I was only contesting one.”

Mayor Whalen asked if that was the only code board meeting Ms. Griffith had attended. Ms. Griffith replied, “No, I have been to probably six.”

Officer Macaluso stated, “I have been to every one the last four and a half years and I’ve only seen her at one.”

Ms. Griffith replied, “I think we could probably go back and look at documents that showed I showed up to more than that.”

Councilmember Winn asked Mr. Nienaber with regard to the negotiations between Ms. Griffith

and her representative. Mr. Nienaber stated Mr. Skees and Griffith Holdings, LLC attorney were trying to come to an agreement. Negotiations were ongoing and then placed on hold due to Covid. Once Mr. Nienaber received the file, he attempted to begin negotiations again and learned the attorney for Griffith Holdings LLC ceased representation of Ms. Griffith and Griffith Holdings LLC.

Mayor Whalen inquired with regard to when the recommendation of the code board was instituted. Mr. Nienaber stated in October of 2020 and Ms. Griffith failed to appear at the hearing. Ms. Griffith stated she was unable to appear due to personal issues. She was unaware her previous attorney left the firm or that she was no longer representing her.

Councilmember Aubuchon asked Ms. Griffith if she was able to hire contractors whether she was in a position to financially remedy the violations. Ms. Griffith stated it would depend on the contractor and how much they would charge. However, she felt at this point, she would sell the property as it was more than she could handle following a discussion with her bank.

Councilmember Osborne asked Ms. Griffith if the contractor she was using presently had a city occupational license. Ms. Griffith was unaware.

### **EXECUTIVE SESSION:**

There being no further questions or comments, Mayor Whalen called for a motion to go into Executive Session pursuant to KRS 61.810 (1) (c) litigation, proposed or pending against or on behalf of the city. Councilmember Huff so moved with a second from Councilmember Winn. **All councilmembers present voted aye, the time being 7:10 p.m.**

Mayor Whalen called for a motion to come back into session after the Executive Session. Councilmember Winn so moved, with a second from Councilmember Huff. **All councilmembers present voted aye, the time being 7:30 p.m.**

Mayor Whalen read the findings of city council:

### **FINDINGS OF FACT AS ISSUED BY FLORENCE CITY COUNCIL**

This matter came on for hearing before the Florence City Council on September 14, 2021, at 6:00 p.m., regarding Griffith Holdings, LLC 7718-7736 U.S. 42, Florence, Kentucky, pursuant to Ordinance No. O-33-05. After hearing, and consideration of all evidence submitted, the Florence City Council makes the following Findings of Fact and Recommendation:

1. Griffith Holdings, LLC has received proper notice of all violations and hearings as required by Kentucky Revised Statutes and/or the City of Florence Code Enforcement Ordinance.
2. Griffith Holdings, LLC has failed to comply with the City's Code Enforcement Ordinance regarding the condition of its real estate located at 7718-7736 U.S. Highway 42, Florence, Kentucky ("Property").
3. There are current outstanding Code Enforcement Liens as identified in Exhibit "4" introduced into the hearing of this matter, a copy of which is incorporated herein.

4. In all, there have been in excess of twenty-two citations issued against 7718-7736 U.S. Highway 42, Florence, Kentucky, for which Liens have been filed during the period beginning January 2, 2019, through the present.

5. Griffith Holdings, LLC has allowed 7718-7736 U.S. Highway 42, Florence, Kentucky, to reach such a state of disrepair that it constitutes a present danger and nuisance to the public at large and particularly to the residents in and around the vicinity of 7718-7736 U.S. Highway 42, Florence, Kentucky.

6. Griffith Holdings, LLC's disregard of and refusal to comply with the Code Enforcement Ordinance has persisted over an extended period of time. Griffith Holdings, LLC has shown no indication that it will ever attempt to reasonably comply with the Code Enforcement Ordinance and/or prior agreements.

7. Griffith Holdings, LLC has never filed a formal written appeal or request for hearing before the Code Enforcement Board.

8. Griffith Holdings, LLC has received far in excess of three convictions of the same violations which have been found to exist for an extended period of time.

9. Filing a civil suit seeking monetary damages against Griffith Holdings, LLC would be appropriate under the circumstances and the only course of reasonable action available to the City at this time.

### **Recommendation**

Based upon the Findings of Fact, the Florence City Council hereby unanimously recommends that a Municipal Order be entered directing the following:

1. The City Attorney be authorized and directed to immediately initiate a civil proceeding against Griffith Holdings, LLC for the collection of all outstanding fines, penalties, interest, costs, attorney's fees, and any and all other charges which may now be due and owing, or hereafter become due and owing, as permitted under the Code Enforcement Ordinance and/or Kentucky Revised Statutes.

2. The civil proceeding is directed to recover all monetary damages incurred by the City of Florence; seek an Order and Judgment directing the sale of the property located at 7718-7736 U.S. Highway 42, Florence, Kentucky; and to seek any and all other relief as may be permitted and authorized under the Code Enforcement Ordinance and/or Kentucky Revised Statutes.

### **MUNICIPAL ORDER MO-9-21:**

Mayor Whalen read Municipal Order MO-9-21. A Municipal Order authorizing and directing the city attorney to file suit seeking judgment for unpaid fines, fees, costs and expenses.

Mayor Whalen called for a motion to approve Municipal Order MO-9-21. Councilmember Huff motioned to approve Municipal Order MO-9-21 with a second from Councilmember Osborne. **All councilmembers present voted aye.**

**MAYOR’S REPORT:**

- Mayor Whalen announced an Arbor Day Celebration will be held Saturday, September 18 at the Florence Government Center. The event is to begin at 10:00 a.m. There will be trees planted in conjunction with the City of Florence Urban Forest Commission.
- Mayor Whalen informed everyone the county driver’s licensing services will be transitioning from the Circuit Court Clerk to the Kentucky Transportation Cabinet on September 27. All Boone County Residents will need to visit the Burlington Regional Office at 6159 First Financial Drive in Burlington.
- Mayor Whalen informed everyone, weather permitting, there will be fifteen minute rolling roadblocks on I-75 northbound at Mt. Zion to allow the crews to move the barrier wall within the project area and to reopen the ramp from US 42 eastbound to I-75 northbound. It is anticipated the forty-five day closure is to end by 5:00 a.m.
- Mayor Whalen stated the east/west runaway 9/27 at CVG had been closed since March. The closure has caused an increase in the air traffic noise in Florence. The contractors are on track to complete the project in a few weeks and hopefully reopen the runway for more normal air traffic pattern. A final phase of the project involves work on an additional runway. The center runway is scheduled to close and it is likely that runway 18L/36R will handle most airport operations for the next few weeks. The closure is likely to cause a temporary increase over the next few weeks for residents. Runway projects for 2021 are almost at an end.

**RECOGNITION:**

Mayor Whalen asked if any of the following desired recognition:

Members of City Council:

Councilmember Winn informed everyone the Florence Y’alls finished first in their division and playoffs begin. He congratulated the Florence Y’alls on a great season.

Councilmember Carroll stated tickets are available for everyone at a cost of \$10 a ticket for general admission.

Councilmember Aubuchon thanked the Mayor and her coordination with Boone County for the 9/11 collaboration. She stated it was a wonderful event and she was moved by the video from Troy Webster.

Councilmember Aubuchon applauded Vanessa Lenear for the 9/11 event and Pooch Fest which was held Saturday morning. She appreciated the K-9 demonstration and seeing the Public Services Department Employees and student ambassadors. She enjoyed Pooch Fest and even brought home a medal for her pooch.

Department Heads:

Fire/EMS Chief, Rodney Wren:

Chief Wren did not desire recognition.

Public Services Director, Eric Hall:

Mr. Hall did not desire recognition.

Chief of Police, Tom Grau:

Chief Grau informed everyone the Boone County High School Homecoming Parade would be held on Friday, September 24. The game will be against Conner High School. The parade will have sixty entries and therefore both lanes of eastbound and westbound KY 18 will be closed. The parade will start at the city building on Ewing Boulevard and proceed to Shawn Alexander Way at the high school. Estimated closure to begin at 5:15 p.m. Community Resource Officers will be hand delivering letters to the businesses affected by the closure on the parade route.

Audience:

No recognition requested from the audience.

**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 7:44 p.m.

**ATTEST:**

/s/ Melissa Kramer  
Melissa Kramer, City Clerk

**APPROVED:**

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

