



**Florence City Council
Business Meeting
Tuesday, December 13, 2022
6:00 p.m.**

MINUTES

The City Council of the City of Florence, Kentucky, met in regular session on Tuesday, December 13, 2022, 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 registered present: Dr. Julie Aubuchon (Vice-Mayor), Mel Carroll, J. Kelly Huff, David Osborne, Patricia Wingo, and Gary Winn.

Staff members present were: Assistant City Attorney, Thomas Nienaber; CFO/HR, Linda Chapman; Fire/EMS Chief, Rodney Wren; Chief of Police, Tom Grau; Public Services Director, Eric Hall; Business & Community Development Director, Joshua Hunt; City Clerk, Melissa Kramer; Videographer, Sean Mullins; and Police Lieutenant, Nathan Rettig.

The following were also present in the audience: Honor Run Executive Director, Scott Spicher; Family Members and Volunteers associated with the Honor Run Half Marathon; Executive Director of the Honor Flight Tri-State, Cheryl Popp; Florence Fire/EMS Department new employees, Firefighter/EMT, Christian Ritchie; Firefighter/EMT, Timothy McElveen; Firefighter/Paramedic, Jacob Shafer; Firefighter/Paramedic, Jacob Worley; Family and Friends of the new Florence Fire/EMS Department employees; Assistant Fire/EMS Chief, John Black; Battalion Chief of Training, Matt Pleiman; Battalion Chief of Prevention/Fire Marshall, Randy Childress; Florence Fire/EMS Captain David Curtis; Firefighter/Paramedic, Candice Biltz; Firefighter/EMT, Jimmy Rose; St. Elizabeth Healthcare Representative, Betty McGee, Clinical Education Specialist; Community Support Services Superintendent, Jeremy Kleier; Code Enforcement Officer, Jacob Carpenter; Code Enforcement Officer, Rodney Deno; Community Services Coordinator, Victoria Wells; Shirley McClintock, Resident of 10 Kennedy; Kristen McClintock, Resident of 10 Kennedy; Northern Kentucky Tribune Reporter, Trisha Scheyer; and Resident of Florence, Thomas Judd.

APPROVAL OF MINUTES:

Mayor Whalen called for a motion to approve the minutes of the November 22, 2022, business meeting. Councilmember Winn motioned to approve the minutes with a second from Councilmember Huff. **All councilmembers present voted aye.**

PRESENTATION – HONOR RUN HALF MARATHON:

Mayor Whalen introduced Scott Spicher, Executive Director of Honor Run Half Marathon, to present the results of the 2022 Honor Run Half Marathon.

Mr. Spicher stated being in attendance was one of his three favorite events associated with the Honor Run Half Marathon. The first is race day, second is Honor Flight Day, and third is presenting the funds raised to Honor Flight Tri-State. Mr. Spicher stated the race was a success because of the support received by the entire city including the Fire/EMS Department, Police Department, Public Services Department, Mayor and councilmembers. The race this year had nearly one thousand runners participating to honor those who have served in the military.

Mr. Spicher invited Cheryl Popp, Executive Director of the Honor Flight Tri-State to the podium and presented this year's donation in the amount of \$43,000. Ms. Popp was very thankful and appreciative. Ms. Popp presented Mr. Spicher with a bottle of their new bourbon, "Honor Flight Select Blend."

Additionally, Mr. Spicher recognized Mayor Whalen and stated, "...this event specifically does not happen without the support of Mayor Whalen, and this being one of her final meetings as the Mayor of the City of Florence, I think it is important that everybody knows that. When we first presented this idea to the City of Florence, we were turned down. We were told no and we kind of said okay, we went on about our business. I received a phone call from the Mayor and she goes, let's talk about that one more time. And because of the guidance, because of her leadership, the Honor Run exists. Because of her support and guidance throughout the process and trying to get city services involved and county services involved, the Honor Run exists, and because of her leadership, we have been able to in the last eight years raise \$343,000 for Honor Flight Tri-State. This does not exist without Mayor Whalen."

Mr. Spicher presented Mayor Whalen with a plaque for her support received for the Honor Run Marathon and making the race happen on behalf of the Honor Run Board of Directors. Mr. Spicher stated, "We thank you very much for not only your support of the Honor Run Half Marathon, but also for your leadership in the City of Florence and in Boone County in general for all these years and we wish you very well in retirement. Thank you."

OATHS OF OFFICE:

Rodney Wren, Fire/EMS Chief, introduced the newest members of the Florence Fire/EMS Department including Firefighter/Paramedic Jacob Worley, Firefighter/EMT Christian Ritchie, Firefighter/EMT Timothy McElveen and Firefighter/Paramedic Jacob Shafer. Mayor Whalen

administered the oaths of office and Fire/EMS Chief Wren presented the new employees with their badges.

RECOGNITION:

Mayor Whalen called upon Fire/EMS Chief, Rodney Wren with regard to the recognition of Florence Fire/EMS Department personnel. Chief Wren introduced Betty McGee, Clinical Education Specialist, with St. Elizabeth Healthcare.

Ms. McGee informed everyone this was the second time this year Florence had been recognized. Ms. McGee explained Target Stroke is a nationwide initiative started by the American Heart Association in 2010 which focuses on improving stroke care. Ms. McGee stated during the month of September 2022, Florence Fire/EMS Personnel were involved in the transport of a stroke patient leading to the fastest door to needle delivery of t-PA for the St. Elizabeth Healthcare system. She stated they delivered a patient to the St. Elizabeth Florence Emergency Department in twenty-eight minutes. She stated the time was phenomenal and she believed the fastest ever in the system.

On behalf of St. Elizabeth Healthcare and the American Heart Association, Ms. McGee recognized Firefighter/Paramedic Candice Biltz and Firefighter/EMT Jimmy Rose for their service. Ms. McGee presented them with a certificate and a pink brain pin.

FIRST READING ORDINANCE O-25-22:

Mayor Whalen read Ordinance O-25-22. An Ordinance of the City of Florence, Kentucky, amending the budget for the 2022-2023 Fiscal Year of the City (Amendment #1).

The purposes of this amendment are as follows: (a) to reflect increases in the Administrative Department resulting from expenditures for computer software; increases in capital outlay in all departments for carryover amounts from the FY 2021 budget; increases in City Projects for additional requests for projects; (b) to reflect an increase in Municipal Aid Expenditures for a carryover for Resurfacing Projects; (c) to reflect increases in Infrastructure Fund revenues and expenditures for the Weaver Road Sidewalk Project and carryover amounts from the prior fiscal year; (d) to reflect pool season results in the Aquatic Fund; (e) to reflect an increase in the Capital Contribution account in the Water/Sewer; (f) to reflect an increase in expenses in the Water/Sewer fund for the grant fund expense, accounting software upgrade and maintenance line items; (g) Fund Balances were changed to reflect the ending fund balance amounts per the June 30, 2021 year-end audit report.

Mayor Whalen called for a motion to approve the first reading of Ordinance O-25-22. Councilmember Carroll motioned to approve, with a second from Councilmember Osborne. **All councilmembers present voted aye.**

BOONE COUNTY PLANNING COMMISSION REAPPOINTMENTS:
MUNICIPAL ORDER MO-11-22:

Mayor Whalen read Municipal Order MO-11-22. A Municipal Order approving the reappointment of Kathy Clark to the Boone County Planning Commission as a member appointed by the City of Florence, Kentucky for a four (4) year term.

Mayor Whalen called for a motion to approve Municipal Order MO-11-22. Councilmember Carroll motioned to approve Municipal Order MO-11-22 with a second from Councilmember Wingo. **All councilmembers present voted aye.**

MUNICIPAL ORDER MO-12-22:

Mayor Whalen read Municipal Order MO-12-22. A Municipal Order approving the reappointment of Kenny Vaught to the Boone County Planning Commission as a member appointed by the City of Florence, Kentucky for a four (4) year term.

Mayor Whalen called for a motion to approve Municipal Order MO-12-22. Councilmember Aubuchon motioned to approve Municipal Order MO-12-22 with a second from Councilmember Wingo. **All councilmembers present voted aye.**

MUNICIPAL ORDER MO-13-22:

Mayor Whalen read Municipal Order MO-13-22. A Municipal Order approving the reappointment of Richard Lunnemann to the Boone County Planning Commission as a member appointed by the City of Florence, Kentucky for a four (4) year term.

Mayor Whalen called for a motion to approve Municipal Order MO-13-22. Councilmember Osborne motioned to approve Municipal Order MO-13-22 with a second from Councilmember Winn. **All councilmembers present voted aye.**

FLORENCE BOARD OF ADJUSTMENT AND ZONING APPEAL REAPPOINTMENT:
MUNICIPAL ORDER MO-14-22:

Mayor Whalen read Municipal Order MO-14-22. A Municipal Order approving the reappointment of Thomas Judd to the Florence Board of Adjustment and Zoning Appeals for a four (4) year term.

Mayor Whalen called for a motion to approve Municipal Order MO-14-22. Councilmember Carroll motioned to approve Municipal Order MO-14-22 with a second from Councilmember Aubuchon. **All councilmembers present voted aye.**

OKI REAPPOINTMENT:
MUNICIPAL ORDER MO-15-22:

Mayor Whalen read Municipal Order MO-15-22 approving the reappointment of Gary Winn to the Board of Directors of Ohio, Kentucky, and Indiana Regional Council of Governments (OKI).

Mayor Whalen called for a motion to approve Municipal Order MO-15-22. Councilmember Huff motioned to approve Municipal Order MO-15-22 with a second from Councilmember Carroll. **All councilmembers present voted aye.**

MUNICIPAL ORDER MO-16-22:

Mayor Whalen called upon Chief of Police, Tom Grau, regarding donation of police canine Karma. Chief Grau stated on December 31, 2022, Officer BJ Eder will retire from the Florence Police Department. Officer Eder currently serves as a K9 handler and has been partnered with Karma. Karma will be turning eight. Karma is at an age where he would not respond well to transition him to another handler and therefore Karma will retire on December 31. Chief Grau requested Karma be declared as surplus property so he may be placed in the custody of Officer Eder and live with his family.

Mayor Whalen read Municipal Order MO-16-22. A Municipal Order declaring Police Canine karma as surplus property.

Mayor Whalen called for a motion to approve Municipal Order MO-16-22. Councilmember Winn motioned to approve Municipal Order MO-16-22 with a second from Councilmember Carroll. **All councilmembers present voted aye.**

MUNICIPAL ORDER MO-17-22:

Mayor Whalen called upon Chief of Police, Tom Grau, regarding donation of a surplus police cruiser. Chief Grau was contacted by Breathitt County Sheriff's Department and the Breathitt County Board of Education requesting donation of a cruiser. He stated Breathitt County is one of the few high schools that have a law enforcement program in their high school. Usually, the Breathitt County Sheriff's Department donates a cruiser, however, as a result of the floods in Eastern Kentucky, they lost cruisers and did not have a surplus. Chief Grau requested the Florence Police Department be permitted to donate a 2015 Ford Interceptor as surplus to the Breathitt Board of Education to be used in their training program.

Mayor Whalen read Municipal Order MO-17-22. A Municipal Order declaring one Ford Interceptor Police Vehicle as surplus property, approving its sale, and authorizing the execution of a Purchase and Sale Agreement with respect thereto.

Mayor Whalen called for a motion to approve Municipal Order MO-17-22. Councilmember Winn motioned to approve Municipal Order MO-17-22 with a second from Councilmember Aubuchon. **All councilmembers present voted aye.**

MUNICIPAL ORDER MO-18-22:

Mayor Whalen read Municipal Order MO-18-22. A Municipal Order approving a Real Estate Purchase Agreement between the City of Florence, Kentucky, and Union 20 LLC, for the property located at 231 Main (& 225-227 Main) Street, Florence, Kentucky.

Mayor Whalen called for a motion to approve Municipal Order MO-18-22. Councilmember Wingo motioned to approve Municipal Order MO-18-22 with a second from Councilmember Osborne. **All councilmembers present voted aye.**

DISCUSSION AND POSSIBLE ACTION - RESOLUTION R-4-22:

Mayor Whalen called upon CFO/HR, Linda Chapman, with regard to the Resolution. Ms. Chapman stated the General Assembly adopted new provisions which requires the Kentucky Deferred Comp to establish a Board of Trustees for their retirement plans. As the city is one of the local employers that can join their plan, a new updated Joinder Agreement needs to be signed by the city containing the new provisions.

Mayor Whalen read Resolution R-4-22. A Resolution of the City Council of the City of Florence, Kentucky adopting the Kentucky Public Employees' Deferred Compensation Authority's Sponsored Kentucky Employees' 457 Deferred Compensation Plan and The Kentucky Public Employees' 401(K) Deferred Compensation Plan which includes KDC's Deemed Ira Program (The Plans).

Mayor Whalen called for a motion to approve Resolution R-4-22. Councilmember Carroll motioned to approve Resolution R-4-22 with a second from Councilmember Huff. **All councilmembers present voted aye.**

FORECLOSURE HEARING & CONSIDERATION OF RESOLUTION 003-2022 FROM THE FLORENCE CODE ENFORCEMENT BOARD:

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

Mr. Thomas Nienaber informed council the purpose of the hearing is to establish a record and act upon a recommendation for civil action initiated against 26 Julia Avenue, 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 65.8801 through 65.8839. Mr. Nienaber stated under the city's code enforcement ordinance, the city council acts upon the recommendation of the Code Enforcement Board.

Mr. Nienaber stated on November 2, 2022, the Code Enforcement Board had a hearing. At the hearing, based upon the recommendation of Jeremy Kleier, the Code Enforcement Board unanimously made a recommendation to city council as to whether or not civil action should be initiated in order to address the code enforcement violations and begin foreclosure for those violations.

Mr. Nienaber introduced the following documents into record:

- Exhibit 1 – Notice of Hearing;
- Exhibit 2 – Jeremy Kleier October 10, 2022 Memorandum;
- Exhibit 3 – Lien Summary;
- Exhibit 4 – Code Enforcement Board Resolution;

(Exhibits are attached to minutes as Exhibit A)

No representative appeared on behalf of Vincent Burns, Brenda Burns, and Raymond Burns. Additionally, Mr. Nienaber stated no representatives had appeared at any Code Board proceeding.

Mr. Nienaber informed councilmembers following the hearing they would be required to make Findings of Fact with respect to their final decision.

Mr. Nienaber called the witness, Rodney Deno, Code Enforcement Officer.

Mayor Whalen swore in the witness, Rodney Deno.

Mr. Nienaber: State your full name for the record.
Witness Deno: Rodney David Deno, Jr.
Mr. Nienaber: And Rodney, you are employed with the code enforcement, public works department?
Witness Deno: That is correct.
Mr. Nienaber: And in that capacity part of your responsibilities is to issue citations against properties for code violations and to assist in the enforcement of those code violations?
Witness Deno: That is correct.
Mr. Nienaber: In your capacity as a code enforcement officer, have you been involved in 26 Julia Avenue, Florence, Kentucky.
Witness Deno: That is correct.
Mr. Nienaber: I would like for you to refer to the exhibits I have given you, exhibit 4, which is a Resolution from the City of Florence Code Enforcement Board which is dated November 2, 2022. Correct?
Witness Deno: That is correct.
Mr. Nienaber: And did you assist in preparing the documentation and presentation of evidence for that Code Enforcement proceeding?
Witness Deno: That is correct.

Mr. Nienaber: And is Exhibit 4 an accurate exhibit and copy of the Resolution from the Code Enforcement Board directing that civil proceedings be initiated to the property at 26 Julia Avenue?

Witness Deno: Yes it is.

Mr. Nienaber: And have you assisted in preparing a list of code enforcement citations, liens and violations with respect to 26 Julia Avenue?

Witness Deno: Yes I have.

Mr. Nienaber: I would refer you to Exhibit 3 and according to that exhibit it would indicate that the first citation was issued on March 30, 2021, with the last being November 9, 2022.

Witness Deno: That is correct.

Mr. Nienaber: Have you made, are those, is that exhibit an accurate listing of the citations, the lien amounts, and the lien filing?

Witness Deno: Yes it is.

Mr. Nienaber: Have you had an opportunity to inspect 26 Julia recently?

Witness Deno: Yes I have.

Mr. Nienaber: When did you do that?

Witness Deno: I did that today actually.

Mr. Nienaber: And have you determined that the property 26 Julia is still in violation?

Witness Deno: It is.

Mr. Nienaber: Do you have photos? Just briefly describe those violations.

Officer Deno identified the violations of 26 Julia in his presentation. (Attached as Exhibit B)

Mr. Nienaber: Mr. Deno, according to Exhibit 3, there is an outstanding amount due of fines and liens in the amount of \$21,888 as of November 9, 2022. Is that accurate?

Witness Deno: That is correct.

Mr. Nienaber: And Exhibit 2 is the memorandum that was written by Jeremy Kleier in support of his recommendation requesting that civil action be initiated. Is that correct?

Witness Deno: It is.

Mr. Nienaber: Have all notices been given in this case?

Witness Deno: They have.

Mr. Nienaber: Have the property owners ever objected or appeared to a hearing to your knowledge requesting additional time or for relief with respect to the enforcement of these liens?

Witness Deno: They have not.

Mr. Nienaber: Is it your opinion that the condition of the property at 26 Julia materially interferes with the peaceful enjoyment of adjacent property owners?

Witness Deno: Yes it does.

Mr. Nienaber: And do you believe that the property at 26 Julia presents a danger to the health, safety and welfare to the residents in the vicinity?

Witness Deno: Yes it does.

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

Mr. Nienaber requested councilmembers adopt the recommendation and Resolution of the Code Enforcement Department and Board and authorize civil litigation.

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 6:45 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 Osborne. **All councilmembers present voted aye, the time being 6:48 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 December 13, 2022, at 6:00 p.m., regarding 26 Julia Avenue, 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. This matter came on for hearing before the Florence City Council on December 13, 2022, at 6:00 p.m., regarding Vincent Burns, Brenda Burns and Raymond Burns, 26 Julia Avenue, Florence, KY, 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:

2. Vincent Burns, Brenda Burns and Raymond Burns have received proper notice of all violations and hearings as required by the City of Florence Code Enforcement Ordinance.

3. Vincent Burns, Brenda Burns and Raymond Burns have failed to comply with the City's Code Enforcement Ordinance regarding the condition of its real estate located at 26 Julia Avenue, Florence, Kentucky ("Property").

4. There are current outstanding Code Enforcement Liens as identified in Exhibit "3" introduced into the hearing of this matter, a copy of which is incorporated herein.

5. In all, there have been 14 Citations issued against 26 Julia Avenue, Florence, Kentucky, for which Liens have been filed which were issued for the period beginning March 30, 2021 through November 9, 2022.

6. Vincent Burns, Brenda Burns and Raymond Burns have not taken reasonable steps to comply with the Code Enforcement Ordinance and have demonstrated a continuous and flagrant refusal to comply by their conduct and inaction.

7. Vincent Burns, Brenda Burns and Raymond Burns have allowed 26 Julia Avenue, 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 the vicinity of and adjacent to 26 Julia Avenue, Florence, Kentucky.

8. Vincent Burns, Brenda Burns and Raymond Burns disregard of and refusal to comply with the Code Enforcement Ordinance has persisted over an extended period of time. They

have shown no indication that they will ever attempt to reasonably comply with the Code Enforcement Ordinance.

9. Vincent Burns, Brenda Burns and Raymond Burns have never filed a formal written appeal or request for hearing before the Code Enforcement Board.

10. Vincent Burns, Brenda Burns and Raymond Burns have received far in excess of 3 convictions of the same violations which have been found to exist for an extended period of time.

11. Filing a civil suit seeking monetary damages against Vincent Burns, Brenda Burns and Raymond Burns 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 Vincent Burns, Brenda Burns and Raymond Burns 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 26 Julia Avenue, 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-19-22:

Mayor Whalen read Municipal Order MO-19-22. 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-19-22. Councilmember Carroll motioned to approve Municipal Order MO-19-22 with a second from Councilmember Huff. **All councilmembers present voted aye.**

FORECLOSURE HEARING & CONSIDERATION OF RESOLUTION NO. 002-2022 FROM THE FLORENCE CODE ENFORCEMENT BOARD:

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

Mr. Nienaber called the witness, Jacob Carpenter, Code Enforcement Officer.

Mayor Whalen swore in the witness, Jacob Carpenter.

Mr. Nienaber: State your name for the record please.
Witness Carpenter: Jacob Carpenter.
Mr. Nienaber: And Jacob, you are employed with the City of Florence Code Enforcement, Public Works Department?
Witness Carpenter: Yes.
Mr. Nienaber: And in your capacity as an enforcement officer, do you have occasion to issue citations, monitor files, and inspect properties and what not regarding the city's code ordinance?
Witness Carpenter: Yes.
Mr. Nienaber: And in your capacity as an employee, have you come in contact with the property located at 10 Kennedy Court, Florence, Kentucky.
Witness Carpenter: Yes.
Mr. Nienaber: And, I've handed you a packet with some exhibits to it Jacob, and first, I would draw your attention to Exhibit 4 which is a Resolution of the Code Enforcement Board dated November 2, 2022. Do you recognize that?
Witness Carpenter: Yes.
Mr. Nienaber: And that was the Resolution adopted by the Code Enforcement Board acting upon the recommendation submitted by Jeremy Kleier, that city council initiate civil proceedings against the owners of 10 Kennedy Court.
Witness Carpenter: Yes.
Mr. Nienaber: I would draw your attention to Exhibit 3, which is an outline of all the code violations respecting 10 Kennedy Court.
Witness Carpenter: Yes.
Mr. Nienaber: And according to Exhibit 3, those citations began August 19, 2019 and have gone through November 9, 2022.
Witness Carpenter: Yes.
Mr. Nienaber: And is Exhibit 3 an accurate representation of the code violations, description of them, citation amounts and the lien filings?
Witness Carpenter: Yes.
Mr. Nienaber: Have you had an opportunity to inspect 10 Kennedy Court recently?
Witness Carpenter: Yes I have.
Mr. Nienaber: And when did you do that?
Witness Carpenter: December 9.
Mr. Nienaber: And you have some photographs. Would you bring those up and explain those briefly for City council.

Officer Carpenter identified the violations of 10 Kennedy in his presentation. (Attached as Exhibit C)

Mr. Nienaber: Jacob, according to Exhibit 3, there is currently outstanding, fines, liens and what not in the amount of \$21,658.00, is that accurate?
Witness Carpenter: Yes.
Mr. Nienaber: Has there been any attempt to significantly rectify or repair any of the citations and code violations between August 19, 2019 and November 9, 2022?
Witness Carpenter: No attempt.

Mr. Nienaber: And you have seen the recommendation of Mr. Kleier that was submitted to the Code Enforcement Board, Exhibit 2, correct?

Witness Carpenter: Yes.

Mr. Nienaber: And that's dated October 10, 2022?

Witness Carpenter: Yes.

Mr. Nienaber: Is it your opinion that that recommendation that civil proceedings be initiated, is it your opinion that it is an accurate recommendation?

Witness Carpenter: Yes.

Mr. Nienaber: And all of the appropriate notices have been given to Mrs. McClintock?

Witness Carpenter: Yes.

Mr. Nienaber: Has Mrs. McClintock ever appealed any violation?

Witness Carpenter: No sir.

Mr. Nienaber: Is it your opinion that the condition of the property located at 10 Kennedy Court materially interferes with the peaceful enjoyment of adjacent property owners?

Witness Carpenter: Yes.

Mr. Nienaber: Is it also your opinion that the property of 10 Kennedy Court presents a present danger for the health, welfare and residents within the vicinity?

Witness Carpenter: Yes.

Mr. Nienaber introduced the following documents into record:

- Exhibit 1 – Notice of Hearing;
- Exhibit 2 – Jeremy Kleier October 10, 2022 Memorandum;
- Exhibit 3 – Lien Summary;
- Exhibit 4 – Code Enforcement Board Resolution;

(Exhibits are attached to minutes as Exhibit D)

Mr. Nienaber had nothing further at that time.

Mayor Whalen called upon Shirley McClintock to present her case. Kristen McClintock was also in attendance. She resides at the property and is the daughter of Shirley McClintock.

Kristen McClintock informed everyone she had taken care of the unlicensed vehicles the weekend and had photographs. She further stated, "When we came on the 2nd and we explained that some of it, we haven't, it's not that we've tried to intentionally disregard everything. We were in a place financially, since they froze a lot of the finances my mom had, well really all the finances with my dad's company since he passed. Everything has went up financially. I do have the money now and I have someone contracted to fix the wall and the soffits. Some of the pictures I was not aware of. What he said as far as the roof, we had a new roof put on three years ago. So I'm not really sure. The flashings, but my brother can contact that person to see about the flashings that he said. It's really been a financial situation. I do have just like within the last several days secured resources to get the wall. The only thing I don't have a plan for right now, is the broken sidewalk by the empty vacant unit. I can't get a quote back from anybody for the masonry work. But really, it's

been a financial issue and I know it's not right to have not said anything after I've had the correspondence kind of went south with Mr. Rose last year, but, it was just really hard when we didn't have an answer to make a rational and keep coming and say we can do this, when we couldn't. So at the meeting last month, they said this was the place to actually, not be afraid to come here, but, you know just come and be honest because you just want to see the situation fixed. And we are trying to. Um, the gentleman right now that is going to fix the wall...soffits, that gentlemen, the only thing we are waiting on his crews are backed up with some of the weather and different things. So as soon as he has a break, he is going to come straight and do that. So we are really just asking for some mercy in this and we can't pay that \$17,000 right now either, or whatever it is now."

Mayor Whalen stated the amount was \$21,658.00.

Kristen McClintock apologized for the delay. She stated, "I live a quiet peaceful life. I've never tried to be a jerk to my neighbors and disrespect them or their property. I have also, the yard situation. I paid from April to October to have the yard done. It's not meticulously manicured by any means but the adjacent property next to me, not trying to throw that under the bus, but I'm sure if he saw my neighbor's situation, I do get kind of confused how I get all the citations."

Mayor Whalen questioned Kristen how she did not know the neighbor was not being cited.

Mr. Nienaber questioned Kristen McClintock (hereinafter "Witness McClintock"):

Mr. Nienaber: You don't take exception to exhibit 2, which is Mr. Kleier's recommendation that the property and civil proceedings be initiated for enforcement and collection of the liens, do you?

Witness McClintock: What? Can you say that again please, I'm sorry, I'm just a little nervous.

Mr. Nienaber: Have you seen Exhibit 2 which is Mr. Kleier's recommendation which was submitted to Code Board Hearing on November 2?

Witness McClintock: Yes.

Mr. Nienaber: You received a copy of that?

Witness McClintock: Yes, that's why we are here.

Mr. Nienaber: And you don't find any fault.

Witness McClintock: I'm not, I'm not, I'm sorry I'm not...

Mr. Nienaber: You don't find fault with that recommendation do you?

Witness McClintock: I'm not an expert in code and those things, I feel it is extreme. I do feel it's extreme.

Mr. Nienaber: Let's go through the recommendation. You have received all notices of all hearings?

Witness McClintock: Yes.

Mr. Nienaber: You've never filed an appeal for any hearing, have you?

Witness McClintock: Well I had conversations, communication back and forth via email with Mr. Rose, and no.

Mr. Nienaber: You've never asked for an appeal or filed any documents with the city?

Witness McClintock: When you say appeal, I'm sorry?
Mr. Nienaber: To a higher authority, to file a lawsuit or filing any kind of action with the city council requesting relief, you have never done that?
Witness McClintock: No I did not hire an attorney to look into it. I'm sorry, I just.
Mr. Nienaber: And the code violations which are an issue began August 19, 2019, correct?
Witness McClintock: Yes, immediately within one month after my father died and we had been working on the property up until then.
Mr. Nienaber: And those conditions persisted up until November 9, 2022?
Witness McClintock: Yes.
Mr. Nienaber: And you take no exception to the accuracy of the code violations and the amount of fines and liens outlined in Exhibit 3, do you?
Witness McClintock: I don't know, I would have to go through each one, I mean, there have been repairs made.
Mr. Nienaber: Those are the same liens and violations and what not that were discussed at the November 2, 2022, Code Board hearing, and you were there for that, were you not?
Witness McClintock: Yes, and I was told to come here and the goal here was to help us, not to persecute.
Mr. Nienaber: You don't own the property do you?
Witness McClintock: I do not, my mom right here does.

Mr. Nienaber addresses Shirley McClintock (hereinafter "Witness Shirley").

Mr. Nienaber: And you have indicated that this is a financial issue for you?
Witness Shirley: Yes.
Mr. Nienaber: Mrs. McClintock, the property owner, you live in Triple Crown do you not?
Witness Shirley: Yes, I have lived there for twenty years.
Mr. Nienaber: And I am going to hand you, which is a copy of the PVA report. Is that your house?
Witness Shirley: Yes.
Mr. Nienaber: And according to the PVA records, that's a four bedroom/four bath, almost 4,000 square feet?
Witness Shirley: Yes.
Mr. Nienaber: You live on 787 Gallant Fox Lane, Union, KY?
Witness Shirley: Yes.
Mr. Nienaber: And the assessment on that house is \$550,000, that with the disability and/or homestead exemption?
Witness Shirley: I think so.
Mr. Nienaber: You maintain your house in Gallant Fox do you not?
Witness Shirley: The best that I can.
Mr. Nienaber: There are no code violations against your house at Gallant Fox are there?
Witness Shirley: No.

Kristen McClintock believed there had been, but Shirley McClintock denied.

Mr. Nienaber: You take care of your property at Gallant Fox, do you not?
Witness Shirley: Well yeah.
Mr. Nienaber: Why don't you take care of your property at 10 Kennedy?
Witness Shirley: Like she said, it's financial. I can barely make it where I'm at.
Mr. Nienaber: So you have the financial resources to take care of the property at Gallant Fox, but not at 10 Kennedy?

Witness McClintock: I have taken care of all the landscaping the past year. My daughter and son-in-law. My mom is a widow. My dad's partners have cut her off. She was at the banks last week seeing if she could do something to change her payments. She literally only has her social security coming in and like a \$300 retirement from Georgetown and she could probably show you those financial records if you want to see her bank statements. That is, I mean, if you look there, the landscaping was not redone this year. I paid for all of the lawn care and those things, but it would sure a lot different if that wasn't a struggle also. I mean for example, right now, she has been walking around sick for two weeks because she hasn't met her deductible. I'm trying to get her out of here tonight to take her to urgent care. I'm not trying to be disrespectful but to show somebody, that just because somebody have something one place. I mean if you knew the drastic difference that my brother, myself, because I have income from my family business, and my mom finances have taken. I don't think you would judge that she is just trying to be neglectful because she lives in a big house. That was once paid for, but for the last six months, my dad was sick, and the partners were acting up, he took a loan out for a trucking company to try to make that work and they have taken that away from her too. She's done everything because they were all once family friends to try to not have to sue those people, because she is still a shareholder. Now, where those things have turned around is because our family business is the steel industry that my brother is still running and we just secured an account down in Nucor Steel in Cartersville that will really turn things back around for her and start bringing her resources back in."

Mayor Whalen asked if either party had any further comments or questions. Kristen McClintock stated her mom would happily submit her financial records.

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 Osborne. **All councilmembers present voted aye, the time being 7:12 p.m.**

Mayor Whalen called for a motion to come back into session after the Executive Session. Councilmember Wingo so moved, with a second from Councilmember Aubuchon. **All councilmembers present voted aye, the time being 7:24 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 December 13, 2022, at 6:00 p.m., regarding Willard K. and Shirley A. McClintock, 10 Kennedy Court, Florence, KY, 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. Willard K. and Shirley A. McClintock have received proper notice of all violations and hearings as required by the City of Florence Code Enforcement Ordinance.
2. Willard K. and Shirley A. McClintock have failed to comply with the City's Code Enforcement Ordinance regarding the condition of its real estate located at 10 Kennedy Court, Florence, Kentucky ("Property").
3. There are current outstanding Code Enforcement Liens as identified in Exhibit "3" introduced into the hearing of this matter, a copy of which is incorporated herein.
4. In all, there have been 25 Citations issued against 10 Kennedy Court, Florence, Kentucky, for which Liens have been filed which were issued for the period beginning August 19, 2019 through November 9, 2022.
5. Willard K. and Shirley A. McClintock have not taken reasonable steps to comply with the Code Enforcement Ordinance and have demonstrated a continuous and flagrant refusal to comply by their conduct and inaction.
6. Willard K. and Shirley A. McClintock have allowed 10 Kennedy Court, 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 the vicinity of and adjacent to 10 Kennedy Court, Florence, Kentucky.
7. Willard K. and Shirley A. McClintock's disregard of and refusal to comply with the Code Enforcement Ordinance has persisted over an extended period of time. They have shown no indication that they will attempt to reasonably comply with the Code Enforcement Ordinance.
8. Willard K. and Shirley A. McClintock have never filed a formal written appeal or request for hearing before the Code Enforcement Board.
9. Willard K. and Shirley A. McClintock have received far in excess of three convictions of the same violations which have been found to exist for an extended period of time.
10. Filing a civil suit seeking monetary damages against Willard K. and Shirley A. McClintock 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 Willard K. and Shirley A. McClintock 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 10 Kennedy Court, 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-20-22:

Mayor Whalen read Municipal Order MO-20-22. 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-20-22. Councilmember Huff motioned to approve Municipal Order MO-20-22 with a second from Councilmember Carroll. **All councilmembers present voted aye.**

Kristen McClintock inquired with regard to the next steps. Mr. Nienaber informed Ms. McClintock following a title search, civil action would be filed in the Boone Circuit Court.

Kristen McClintock questioned with regard to bringing the property into compliance and possibly working out a settlement with the city.

Mayor Whalen encouraged the McClintock's to continue working on the property, bringing the property to code and to possibly discuss settlement with the city. However, she stated the matter had been ongoing since 2019, and while they have had other issues ongoing, no representatives ever contacted the city and the city was ignored until now. Mayor Whalen encouraged them to find a way to repair the issues for them and their neighbors. She stated it was very difficult for the code officers and Code Enforcement Board to be disregarded as they had been.

MAYOR'S REPORT:

- Mayor Whalen informed everyone Saturday, December 17, the Florence Fire/EMS Department will have a Toy Drive in conjunction with Wal-Mart on Houston Road. Help fill the truck between 10:00 a.m. – 2:00 p.m. All donations collected will go to the Boone County Family Resource Centers, who will then make sure our local children will have a gift or two under the tree. Santa will be there for pictures too.
- Mayor Whalen reminded everyone the Oath of Office for councilmembers and the Mayor will be held at the December 20, 2022 council meeting.
- Mayor Whalen announced the Florence Government Center will be closed on Friday, December 23 and Monday, December 26 for the Christmas holiday. The city will resume regular hours on Tuesday, December 27, 2022.
- Mayor Whalen announced city offices will be closed on Monday, January 2, 2023 for New Year's Day and resume regular hours on Tuesday, January 3, 2023.

- Mayor Whalen stated the city will have Christmas Tree Recycling Pickup on Wednesday, January 4, 2023. Trees must be placed at the curb prior to 7:00 a.m. to be collected. Please remove all tinsel, ornaments, ribbons, and lights. Please do not place the tree in a bag. Contact the City of Florence Public Services Department at 859.647.5416 for more information.
- Mayor Whalen advised the Boone County Christmas Tree recycling drop off is scheduled for Saturday, January 7, 2023. Drop off location in Florence is Stringtown Park. Please remove all tinsel, ornaments, ribbons, lights and bags.

RECOGNITION:

Mayor Whalen asked if any of the following desired recognition:

Members of City Council:

Councilmember Aubuchon informed everyone she attended the Florence Community Band Christmas Concert and it was phenomenal.

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 did not desire recognition.

Audience:

No recognition requested from the audience.

EXECUTIVE SESSION:

Mayor Whalen called for a motion to go into Executive Session pursuant to KRS 61.810 (1)(b) acquisition/sale of real property - where publicity would be likely to affect the value of property to be acquired for public use or to be sold by the city and pursuant to KRS 61.810 (1) (c) litigation proposed or pending against or on behalf of the city.

Councilmember Carroll so moved with a second from Councilmember Winn. **All councilmembers present voted aye, the time being 7:36 p.m.** Mayor Whalen advised they would return to the room to adjourn and did not anticipate any further business taking place following Executive Session.

Mayor Whalen called for a motion to come back into session after the Executive Session. Councilmember Huff so moved, with a second from Councilmember Wingo. **All councilmembers present voted aye, the time being 8:07 p.m.**

ADJOURNMENT:

There being no further business to come before the Council, Mayor Whalen called for a motion to adjourn. Councilmember Aubuchon so moved, with a second from Councilmember Wingo. **Councilmembers present voted aye, the time being 8:08 p.m.**

APPROVED:

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

ATTEST:

/s/ Melissa Kramer
Melissa Kramer, City Clerk

