

MINUTES OF MEETING HELD NOVEMBER 13, 2017

The Common Council of the City of Somerset, Kentucky met in a regular meeting on Monday November 13, 2017, at 7:00 p.m. with the following present: Council Members; Amanda Bullock, Tom Eastham, David Burdine, Brian Dalton, Jerry Wheeldon, Jimmy Eastham, Jerry Girdler, Mike New, Donna Hunley, Jim Mitchell, and John Adams and Mayor Eddie Girdler and City Clerk Nick Bradley. Absent John Minton and City Attorney Carrie Weise.

Mr. Wheeldon moved to approve the minutes of the regular meeting held on October 23, 2017 along with reports as mailed. Mr. New seconded the motion. Upon roll call the following Council Members voted "Aye": Mrs. Bullock, Mr. T. Eastham, Mr. Burdine, Mr. Dalton, Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Mitchell, and Mr. Adams.

First reading was given the following Ordinance No. 17-23: Adoption of the Interlocal Agreement between the City of Somerset, Kentucky and Pulaski County, Kentucky, to Create the Somerset Pulaski Economic Development Authority.

<p style="text-align: center;">CITY OF SOMERSET, KENTUCKY ORDINANCE NO. 17-<u>23</u></p> <p style="text-align: center;">AN ORDINANCE RELAYING TO THE ADOPTION OF THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF SOMERSET, KENTUCKY AND PULASKI COUNTY, KENTUCKY, TO CREATE THE SOMERSET PULASKI ECONOMIC DEVELOPMENT AUTHORITY ("SPEDA") PURSUANT TO KRS 154.50-301 THROUGH 154.50-346.</p> <p style="text-align: center;">* * *</p> <p>WHEREAS, the Interlocal Cooperation Act, codified at Kentucky Revised Statutes ("KRS") 65.210 through 65.300, provides that any power or powers, privileges or authority exercised or capable of exercise by a public agency (including a city, a county or any other political subdivision of the Commonwealth) may be exercised jointly with another public agency under an interlocal cooperation agreement for joint or cooperative action pursuant to the provisions of the Act, and that such public agencies may acquire, construct, maintain, add to and improve the necessary property, real and personal, which is required in order to accomplish the public purposes set forth in such interlocal cooperation agreement; and</p> <p>WHEREAS, the Act further authorizes the public agencies to create or utilize a "separate legal or administrative entity," which entity may, on behalf of the participating public agencies, have certain powers delegated to it as provided in the interlocal cooperation agreement; and</p> <p>WHEREAS, pursuant to KRS 154.50-301 through 154.50-346, a governmental agency may create a commercial and industrial development authority, with corporate powers, to act as the agency, instrumentality and constituted authority of such governmental agency in the acquisition and development of industrial sites, parks, and subdivisions (as defined at KRS 154.50-213) for economic development purposes; and</p> <p>WHEREAS, the City of Somerset, Kentucky (the "City") and Pulaski County, Kentucky (the "County") have agreed it is in their mutual interest to cooperatively pursue economic development opportunities within their jurisdiction; and</p> <p>WHEREAS, the City and the County are desirous of entering into an interlocal cooperation agreement establishing a commercial and industrial development authority under KRS 154.50-301 through 154.50-346.</p> <p>NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERSET, PULASKI COUNTY, KENTUCKY:</p> <ol style="list-style-type: none">1. The City hereby approves that certain Interlocal Cooperation Agreement between the City of Somerset, Kentucky and Pulaski County, Kentucky (the "Agreement"), a copy of which is attached hereto as <u>Exhibit A</u>, relating to the creation of the Somerset Pulaski Economic Development Authority ("SPEDA").2. Mayor Eddie Girdler is hereby authorized and directed to execute the Agreement on behalf of the City.	<p style="text-align: right;">3. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.</p> <p style="text-align: center;">CITY OF SOMERSET, KENTUCKY MAYOR EDDIE GIRDLER</p> <p>1st Reading: <u>NOVEMBER 13, 2017</u> 2nd Reading: _____</p> <p>ATTEST: _____ City Clerk</p>
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Mr. T. Eastham moved to approve the following Interlocal Agreement: Creation of Joint Code Enforcement Board & Mutual Aid Agreement between the City of Somerset, Kentucky, City of Burnside, Kentucky, and the City of Ferguson, Kentucky. Mr. New seconded the motion. Upon roll call the following Council Members voted "Aye": Mrs. Bullock, Mr. T. Eastham, Mr. Burdine, Mr. Dalton, Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Mitchell, and Mr. Adams.

**INTERLOCAL AGREEMENT:
CREATION OF JOINT CODE ENFORCEMENT BOARD
&
MUTUAL AID AGREEMENT**

City of Somerset
City of Burnside
City of Ferguson

THIS AGREEMENT is made pursuant to the authority of the Interlocal Cooperation Act (KRS 65.210 to 65.300), by and between the CITY OF SOMERSET, KENTUCKY, a municipal corporation, the CITY OF BURNSIDE, KENTUCKY, a municipal corporation, and the CITY OF FERGUSON, KENTUCKY, a municipal corporation;

WHEREAS, KRS 65.8801 to 65.8839, also known as the Local Government Code Enforcement Board Act ("the Act"), provides a mechanism for administrative enforcement of local government ordinances classified as a civil offense, such as nuisance codes, noise ordinances, and property maintenance codes; and

WHEREAS, the Act allows local governments to create a joint code enforcement board, through an interlocal agreement, with the power to issue remedial orders and impose civil fines for violations of each jurisdiction's ordinances; and

WHEREAS, the Cities of Somerset, Burnside and Ferguson desire to form, jointly fund and participate in such a joint code enforcement board; and

WHEREAS, the City of Somerset currently operates a Somerset Code Enforcement Board ("Somerset CEB"), and Somerset also employs a Code Enforcement Officer and a Building Inspector, to be referred to collectively as "Code Enforcement Officials" in this agreement; and

WHEREAS, the Cities of Burnside and Ferguson wish to utilize, under a Mutual Aid Agreement, Somerset's Code Enforcement Officials as may be needed to assist their own officials in enforcement of City Ordinances, and for a Joint Code Enforcement Board to be created so that city officials in all participating cities will have the ability to provide aid and services under this agreement within the boundaries of each of the City's respective jurisdictions;

NOW, THEREFORE, in consideration of the mutual and reciprocal covenants herein, the Parties hereby agree as follows:

I. **Purpose of Agreement:** The purpose of this Agreement is to provide for creation and participation in a joint code enforcement board pursuant to the Act, and to create a Mutual Aid Agreement for the use of Somerset's Code Enforcement officials in regards to nuisance and/or

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building code violations, including but not limited to the City of Somerset's Code Enforcement Officer(s) and Building Inspector(s).

II. **Creation of Board:** There is hereby created, pursuant to the Act, a joint code enforcement board to be known as the "Local Government Joint Code Enforcement Board" (hereinafter referred to as the "Joint CEB").

A. **Powers of the Board:** The Board shall have the following powers:

1. On behalf of any Party that has adopted a Code Enforcement Board Ordinance pursuant to KRS 65.8801 to 65.8839, the Board shall have all of the powers provided for in said Act, and as set forth in each of the participating cities' Code Enforcement Board Ordinances.

2. The Board shall adhere to the procedures set forth in the Code Enforcement Ordinance by the Party in whose jurisdiction the violation is alleged to have occurred.

III. **Membership:** The provisions of KRS 65.8811 and 65.8818 shall generally govern membership on the Board. The Joint CEB shall consist of the three (3) regular board members, and two (2) alternates, of the City of Somerset's Code Enforcement Board; and one (1) regular Board member, and one (1) alternate, of each additional participating city to this agreement. The full Joint CEB therefore will consist of five (5) regular Board members, and four (4) alternates. The members shall be appointed consistent with each participating city's Code Enforcement Board Ordinance as adopted pursuant to the Local Government Code Enforcement Board Act set forth in KRS.

IV. **Mutual Aid and Use of Somerset's Code Enforcement Officials as needed:** The Code Enforcement Officer and Building Inspector for the City of Somerset, by operation of this agreement, shall have jurisdiction and authority to issue citations within the municipal boundaries of the other participating cities if said cities request aid in enforcement. Nothing in this Agreement shall be construed to extend the laws of any Party, such as nuisance and property maintenance codes, to any other Party. The Code Enforcement Officer and the Building Inspector of Somerset shall aid in the enforcement of only those ordinances adopted within each of the individual cities' jurisdictions.

V. **Status of Employees:** Each City shall be responsible for employing their own Code Enforcement personnel providing service under this Agreement, although the City of Somerset's Code Enforcement Officer and Building Inspector may provide mutual aid to the other cities participating in this agreement if requested by that city, and approved by the Mayor of Somerset. In no event shall this Agreement be interpreted or construed to create an employer-employee relationship between the employees of the City of Somerset, and the Cities of Burnside or Ferguson.

VI. **Abatement:** Whenever any final order of the Joint Code Enforcement Board calls for the abatement of violations, or whenever a Code Enforcement Officer or the executive authority of a Party determines that continued existence of the violation presents imminent danger, a serious

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threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the violation will be irreparable or irreversible, the Party in whose jurisdiction the violation exists shall be solely responsible for determining whether, when, and/or under what conditions abatement shall occur.

A. The costs of abatement of a violation shall be borne solely by the Party within whose jurisdiction the violation exists.

B. If the Party does not perform the abatement using its own staff, it shall be responsible for contracting with a third party for abatement services.

VII. **Hearing Officers and Counsel for the Joint CEB:** If needed, the Joint CEB shall have the authority to hire hearing officers and/or Legal Counsel to provide services as needed to the Joint CEB as authorized by the Act. The executive authority of the Party in whose jurisdiction the violation is alleged to have occurred shall approve the selection of the hearing officer or Counsel, and the Party in whose jurisdiction the violation is alleged to have occurred shall bear the costs of the use of a Hearing Officer or Counsel if one is determined to be needed.

VIII. **Insurance/Liability/Indemnification:**

A. **General Liability Insurance:** The City of Somerset shall maintain general liability insurance which shall cover the Joint CEB, and shall name the other Parties as additional endorsed insureds on said policies.

B. **Limitation of Liability:** Except as set forth in this Agreement, none of the Parties hereto shall have any obligation or liability to any of the other Parties for any costs, expenses, losses, damages, or any other claims for relief, that are in any way related to any act or omission in regard to code enforcement activity that is the subject of this Agreement.

C. **Indemnification:** Each Party shall indemnify and hold harmless the other Parties and the other Parties' officers, agents, employees and volunteers from each, every, and all losses, expenses costs, compensation, and other damages of every kind and nature, and all claims, demands and causes of action for them, both at law and at equity, including, without limitation, third party actions and actions for contribution and/or indemnification, which are in any way related to the acts or omissions of the Party or its officers, agents, employees and volunteers, to which there is no active contribution by the other Parties or the officers, agents, employees, and volunteers thereof.

IX. **Effective Date:** This Agreement shall be effective the first full day following completion of all requirements contained in the Interlocal Cooperation Act, KRS 65.210 to 65.300.

X. **Duration:** This Agreement shall remain in effect for a period of five (5) years following its Effective Date and shall automatically renew for successive five year periods, unless or until terminated according to the provisions of the Agreement.

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XI. **Permissible Methods of Termination:**

A. **Termination:** This Agreement may be terminated by any Party by providing notice to the other Parties not less than 120 days prior to termination.

B. **Agreement to Remain in Force for Non-Terminating Parties:** In the event that one or more Parties terminate the Agreement, such that the City of Somerset and at least one other Party remain Parties thereto, such termination shall not affect the force and validity of the Agreement between the remaining Parties.

XII. **Miscellaneous:**

A. **Governing Law:** This Agreement shall be interpreted, construed and governed by Kentucky law.

B. **Severability:** In the event that any one or more of the provisions of this Agreement, or any part of a provision shall be judicially determined to be contrary to law or otherwise invalid or unenforceable in any respect, such invalidity, illegality or non-enforceability shall not affect any other provision or part of a provision of this Agreement; and such provision or part of a provision shall be reformed, interpreted, and construed as if such provision or a part of a provision had never been included in this Agreement.

C. **Entire Agreement:** This Agreement constitutes the entire agreement and understanding between the Parties in regard to the subject matter thereof; and it supersedes all prior negotiations, representations, understandings, and agreements between them, written or oral, all of which are no longer effective.

D. **Execution and Counterparts:** This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

E. **Amendment:** This Agreement may not be amended by any means other than a written agreement signed by all Parties.

F. **Captions and Headings:** Captions and headings of the paragraphs and sub-paragraphs of this Agreement have been inserted for the convenience of reference only, and in no way shall affect the interpretation of any of the terms and provisions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been signed by the Mayor of the City of Somerset, the Mayor of the City of Burnside, and the Mayor of the City of Ferguson, on the date opposite their respective names, pursuant to the authority granted them by their respective legislative bodies.

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CITY OF SOMERSET
 By: Edward Smith Date: November 13, 2017
 Edward Smith, Mayor

ATTEST:
[Signature]
 City Clerk

CITY OF BURNSIDE
 By: _____ Date: _____
 Robert Lawson, Mayor

ATTEST:
 City Clerk

CITY OF FERGUSON
 By: _____ Date: _____
 Allen Dobbs, Mayor

ATTEST:
 City Clerk

APPROVED PURSUANT
 TO K.R.S. 65.260:

 Department for Local Government

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First reading was given the following Ordinance No. 17-24: Annexation of a Portion of South Highway 27.

ORDINANCE NO. 17-24

AN ORDINANCE ANNEXING TO THE CITY OF SOMERSET TERRITORY AS SET FORTH BELOW AND DESCRIBED IN THE ATTACHED EXHIBITS, SAID TERRITORY HAVING BEEN DECLARED IN THE CITY'S INTENT TO ANNEX ORDINANCE TO BE DESIRABLE TO ANNEX BY THE CITY, AND PURSUANT TO KRS CHAPTER 65A AND ALL OTHER APPLICABLE LAW.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOMERSET, KENTUCKY:

I. PURPOSE OF ORDINANCE

This Ordinance sets forth the Annexation of the subject property, which the City of Somerset, Kentucky has previously expressly stated in *intent to annex*, and further declared *the territory as desirable to annex* to the City of Somerset, Kentucky, pursuant to KRS 65A.420 and all other applicable law. Said *intent to Annex Ordinance* was passed upon the second reading on the 14th day of August, 2017, and the Clerk's certification of notice to the property owner(s) was made part of the official record of said meeting per KRS 65A.425.

As required, said *intent to Annex Ordinance* was published with all Exhibits after passage. To date, no bona fide petition of objection has been presented to the Mayor and the 60-day period for such petition having ended, the City herein exercises its right to Annex the territory set forth in the *intent to Annex Ordinance* referred to above.

II. REQUIREMENTS FOR ANNEXATION SATISFIED BY THE CITY

The subject unincorporated territory is contiguous to current boundaries of the City Limits, is territory that is urban in character or is suitable for urban development without unreasonable delay, some of which currently contains water mains and/or sewer lines and/or natural gas lines which belong to the City of Somerset that provide services for customers throughout the County and currently outside of the City's corporate boundaries; further, the included and described territory that does not already contain such infrastructure is part of the City's future development and growth plans, much of which is contained in the City's approved Comprehensive Plan and growth plans, much of which is contained in the City's approved Comprehensive Plan and growth plans, and which will be adopted and reviewed on a periodic basis. Therefore the growth of the City's corporate boundaries and infrastructure into the subject territory is not a mere speculation that services may be provided in the future, but a solid and existing plan of which the City is financially capable of providing which will benefit the entire County and all communities within its boundaries, and which benefits the State of Kentucky and the entire South Eastern Region of the United States.

III. CURRENT MUNICIPAL VALUE OR PURPOSE

Pursuant to applicable case law interpreting Kentucky Annexation Laws, the City of Somerset may annex territory in strips, otherwise known as, and hereafter described as, "corridors", if said territory has a concrete and tangible municipal value or purpose existing at the time annexation is sought. The City of Somerset, by and through the City Council, herein states and declares that the City of Somerset has the required concrete and tangible municipal value or purpose for annexing the subject territory (See Section II above for additional information).

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IV. DESCRIPTION OF TERRITORY

Please see Exhibit "A" (Description and Map) which contains an accurate description of the annexed territory pursuant to KRS 65A, attached hereto and incorporated herein in full by reference.

V. SEVERABILITY

If any part of this ordinance is deemed by a court of competent jurisdiction to be unenforceable or unconstitutional, the remaining provisions of this ordinance shall continue in full force and effect.

VI. FORCE AND EFFECT

This ordinance shall be in full force and effect upon passage by the Common Council, approval by the Mayor, and publication according to law.

FIRST READING: November 13, 2017

SECOND READING: _____

Approved: _____
 Mayor

ATTEST:

 City Clerk

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Mr. Wheeldon made a motion to accept the following tax refunds: \$43.32 for Homestead Exemption on 2017 previously paid taxes to Jimmy Jr. & Connie Burton, \$48.88 for Homestead Exemption on 2017 previously paid taxes to Jackie L. & Judy L. Phelps, and \$47.97 for Homestead Exemption on 2016 previously paid taxes to David & Elizabeth Moody. Mr. Burdine seconded the motion. Upon roll call the following Council Members voted "Aye": Mrs. Bullock, Mr. T. Eastham, Mr. Burdine, Mr. Dalton, Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. New, Mrs. Hunley, Mr. Mitchell, and Mr. Adams.

There being no further business the meeting adjourned.

APPROVED: 
MAYOR

ATTEST: 
CITY CLERK