July 25, 2016

The Common Council of the City of Glasgow, KY met in regular session on Monday, the 25th day of July, 2016 at 7:00 p.m. in the Council Chambers with the following persons present:

HONORABLE MAYOR: Dick Doty

COUNCIL MEMBERS: Ben Bucher – absent
Jake Dickinson
Brad Groce
Stacy Hammer
Wendell Honeycutt
Chasity Lowery
James Neal
Freddie Norris
Karalee Oldenkamp
Gary Oliver
Joe Trigg
Marlin Witcher

There being a quorum present, the Mayor declared the meeting open for business.

Pledge of Allegiance

Council Member Norris opened the meeting with a prayer.

MINUTES OF COUNCIL
MEETING ON 7-11-16

MOTION was made by Council Member Dickinson for the approval and adoption of the 7-11-16 Council Meeting minutes
SECOND was by Council Member Hammer
VOTE unanimous approval of the Council

Owen Lambert, Industrial Development and Economic Authority (IDEA) Board Chair addressed the Council pertaining to the spec building in the Highland Glen Industrial Park. He said in September 2014, the city, along with IDEA and Alliance Corporation came to an agreement in which Alliance Corporation, who was the successful bidder, would be deeded almost an 11 acre tract of land IDEA owned in the Industrial Park to build a spec building. Alliance constructed an 80,100 square foot spec building at their cost and upon the completion they agreed to carry the burden for one year. That year will end on July 31st and now it is now time for IDEA to repurchase the building back from Alliance. The cost will be approximately $1.895 million. Lambert explained they have contracted with three local banks, Citizens First Bank, Edmonton State Bank and South Central Bank who will share equally in loaning the money to IDEA and the city of Glasgow, in simple terms, has cosigned that loan. Their intention is to borrow the money for one year.

Mr. Lambert said that spec buildings are basically just the finished outside shell of a building with the inside being unfinished. He stated as businesses look to move or expand in an area, having a building site and shell ready to go, quickens the process. The unfinished interior allows the business to modify the building to meet their specific needs. Having a spec building helps to set us apart when it comes to attracting business, Lambert said. He also commented that one benefit of having a spec building is it gets potential businesses in the area to see, aside from the building, what this community has to offer.

Dan Iaconi, Director of IDEA reemphasized on Mr. Lambert’s comment that they do have a couple of prospects looking at the building at this time, however no commitment has been made.
We currently have a lot of traffic coming through now because there are not very many spec buildings in the Commonwealth right now and we are working very closely with the Cabinet of Economic Development, Lacconi stated. This tool, Lacconi said, he felt was necessary to always utilize when you are trying to create economic growth in your community. He thanked the Mayor and Council for listening to their comments.

MUNICIPAL ORDER NO. 2016-702

MUNICIPAL ORDER REAPPOINTING RONDAL BUFORD TO THE CODE ENFORCEMENT BOARD. THIS APPOINTMENT SHALL BE FOR A THREE (3) YEAR TERM EXPIRING JULY 31, 2019 AND IS SUBJECT TO THE APPROVAL OF THE GLASGOW CITY COUNCIL.

A proposed municipal order was presented and caused to be read.

MOTION was made by Council Member Witcher for the approval and adoption of the municipal order
SECOND was by Council Member Neal
VOTE unanimous approval of the Council present

MUNICIPAL ORDER NO. 2016-703

MUNICIPAL ORDER REAPPOINTING DEWAYNE DECKER TO THE CODE ENFORCEMENT BOARD. THIS APPOINTMENT SHALL BE FOR A THREE (3) YEAR TERM EXPIRING JULY 31, 2019 AND IS SUBJECT TO THE APPROVAL OF THE GLASGOW CITY COUNCIL.

A proposed municipal order was presented and caused to be read.

MOTION was made by Council Member Groce for the approval and adoption of the municipal order
SECOND was by Council Member Norris
VOTE unanimous approval of the Council present

ANNOUNCEMENT:

July 29th Dailey & Vincent will be preforming at the Plaza Theatre. Dubbed by CMT as the "Rockstars of Bluegrass," the Dailey & Vincent duo has been hailed throughout the music industry as one of the most exciting, reputable and elite bluegrass bands in America, having won numerous awards for their uniquely contagious and riveting music.

Council Member Oliver said it was his understanding the Glasgow Electric Plant Board was seated by the board of municipal orders and was approved by this Council and previous Mayors under their recommendations. Oliver continued that in recent weeks the Governor of Kentucky had dissolved a board on his own and the Judge Executive of this county had dissolved a board. Mr. Oliver’s question to City Attorney Rich Alexander was, could this council or could the Mayor do this on their own or individually? Alexander said his opinion was that they could not because the powers that have conferred upon the Electric Plant Board are bestowed upon by state law not city ordinance.

The following letter was sent out to the Mayor and each City Council Member on Monday, July 25th at 3:45 p.m. as requested by City Attorney Alexander pertaining to his legal opinion with the respect to the sale of the Glasgow Electric Plant Board and/or merger with the Glasgow Water Company.
July 25, 2016

Honorable Dick Doty, Mayor
Honorable Members of the Glasgow City Council
City Hall
112 East Public Square
Glasgow, Kentucky 42141

Re: Legal Opinion with Respect to the Sale of Glasgow EPB and/or Merger with the Glasgow Water Company

Mayor Doty and All Council Members:

At the July 11, 2016 council meeting, I was asked by Councilman Jake Dickinson to research two (2) issues:

1. Can the City sell the Glasgow Electric Plant Board?
2. Can the Glasgow Electric Plant Board merge with the Glasgow Water Company?

Please accept this letter as my written legal opinion on those particular issues.

While I cannot give you a precise date on which the Glasgow EPB came into existence, my inquiries indicate that it was created as a result of a public referendum in the late 1950s and began operation in the early 1960s. That being the case, Chapter 96 of the Kentucky Revised Statutes ("KRS"), §§ 550 to 900, is the controlling body of law on the issues at hand. These sections, KRS 96.500 to 96.900, are referred to as the "TVA Act" and are intended to be the complete law in the Commonwealth of Kentucky with respect to the operation of electric plants acquired by any municipality after June 1, 1942.

Issue No. 1:
Can the City sell the Glasgow Electric Plant Board?

KRS 96.860 of the TVA Act governs this particular issue. Yes, the City can sell the Glasgow Electric Plant Board, but the following procedural steps must first be fully complied with:

1. The Board of Directors of the Glasgow EPB must adopt a resolution approving the
sale and the resolution must describe, in detail, the terms and conditions of the sale (i.e., the property to be sold, the purchaser, the consideration [price] to be received by the Board for such sale) and the date on which an election shall be held, which shall be the day of the regular November election.

2. The resolution of the Board of Directors of the Glasgow EPB approving the sale must then be submitted to the Glasgow City Council for approval by that governing body. If approved by the Glasgow City Council, the question must then be submitted to an election of the qualified voters and the requirements of the election are outlined in the TVA Act. If a majority of all of the qualified voters of the City vote in favor, the sale may be consummated; otherwise, the sale shall not be permitted to occur.

So, again, can the City sell the Glasgow Electric Plant Board? The answer is yes, but it essentially requires a three-fold approval: EPB approval; City Council approval; and citizen approval.

Issue No. 2:
Can the Glasgow Electric Plant Board merge with the Glasgow Water Company?

To address this particular issue, one must look not only to the TVA Act (KRS 96.550 to 96.900), but to other sections within KRS Chapter 96 which speak to a combined City electric and water plant. Those additional sections are KRS 96.171 to 96.188.

According to these additional KRS sections, the governing body (in our case, the City Council) of a municipality "owning and operating an electric system and a water system and operating them as one (1) combined system or plant" may elect to operate such systems as a combined electric and water plant. However, to accomplish this result, the governing body must enact an ordinance declaring the desire and intent of the municipality to accept and operate the electric and water system or plant under the provisions of KRS 96.171 to 96.188, which outlines how a combined "board of public utilities" is formed and is to function.

However, having said all of that, it is my opinion that KRS 96.171 to 96.188 does not apply to the City of Glasgow - at least at this particular time - because the City of Glasgow does not operate an electric system and a water system as one (1) combined system or plant.

From my research, it appears that, in 1937, the City of Glasgow created the Glasgow Water and Sewer Commission, better known now as the Glasgow Water Company. The ordinance has been codified and is set forth in the City's Code of Ordinances, §§ 36.130 to 36.140. The ordinance creating the Glasgow Water and Sewer Commission clearly states that "the business and affairs of the water and sewer system of the City shall be exclusively supervised, managed and controlled on behalf of the City by the Water and Sewer Commission and that the Commission shall have "direct supervision, management and control of the entire municipal water and sewer system in the maintenance, operation and extension thereof..." With respect to the Glasgow EPB, as already cited above, the electric plant has been operating autonomously since the early 1960s.

Because the Glasgow EPB and the Glasgow Water Company are currently operating as
separate, autonomous systems, and have been doing so for a very long time, they cannot be presently combined utilizing KRS 96.171 to 96.188. However, it is my opinion that if both the Glasgow EPB and the Glasgow Water Company, by and through their respective boards or commissions, were to recommend that the City of Glasgow combine its electric and water systems or plants, then the legislative body of the City could enact an ordinance combining the two (2) systems and then, by separate legislative action, take advantage of KRS 96.171 to 96.188. But again, because the Glasgow EPB has been granted exclusive authority to govern its affairs under the TVA Act, and because the Glasgow Water Company has been granted exclusive supervision, management and control of its operations by City ordinance, it is my opinion that any merger of the electric and water systems must first be initiated by the governing bodies of those two (2) utilities.

Respectfully submitted,

T. Richard Alexander II
City Attorney for Glasgow, Kentucky