The Common Council of the City of Kokomo, Indiana met Monday September 8th, 2014 at 7:00 P.M. in the City Hall Council Chambers.

The meeting was called to order by President Kennedy.

Invocation was offered by Councilwoman Sanders.

Pledge:

Present: Wyant, Cameron, Young, Haworth, Hayes, Kennedy, Summers, Sanders, Miklik

Absent: None

The minutes of the August 25th, 2014 Public Hearing & Council Minutes were declared approved as presented.

COMMUNICATIONS: President Kennedy states, we will have a Public Hearing at 7:00 on Ordinance #6768 (Budget) for the City of Kokomo.

COMMITTEE REPORTS: Councilman Hayes states, I want to remind the Council that there will be a Budget Hearing on Tuesday September 9th at 6:00 P.M., and if needed we have September 11th to continue to review the Budget.
ORDINANCE 6768: AN ORDINANCE FIXING THE BUDGETS FOR VARIOUS DEPARTMENTS, BOARDS, AND COMMISSIONS OF THE CITY OF KOKOMO, INDIANA BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA, AS FOLLOWS:

First reading

Councilman Hayes moved for passage on ordinance #6768 on first reading. Seconded by Councilman Haworth.

Councilman Hayes states, this is our annual ordinance of fixing the budget for the year. We have been in budget hearings so far we have had two this year; tentative amount of the budget is $65,181,712. I would like to remind everyone that we will have a Public Hearing on the budget September 29th, and we must have our second reading done on October 20th.

Vote for passage follows:
Aye: Wyant, Cameron, Young, Haworth, Hayes, Kennedy, Snaders, Miklik
Nay: 0
Abstain: Summers

The vote was 8 to 0 for passage on first reading.

ORDINANCE 6769: AN ORDINANCE FOR THE CONTROL OF ANIMALS WITHIN THE CITY OF KOKOMO, INDIANA.

(AS AMENDED)

Second reading

Ordinance 6769 was read by the Clerk by title only. Councilman Cameron moved for amendment that $50,000 for insurance policy be removed. Seconded by Councilwoman Sanders.
Cont. Ordinance #6769.

Vote for Amendment:
Aye: All
Nay: None
The vote was 9 to 0 for the amendment.

Councilman Cameron moved for passage on ordinance #6769 on second reading. Seconded by Councilman Wyant.

Councilman Cameron states, we have taken out the $50,000 insurance policy; as I stated before there are four different types of breeding animals that your insurance company will not give you liability on. We have spent a lot of time on this. Councilman Summers have done an excellent job helping me out with the Animal Society and the Humane Society Animal Control.

Councilman Summers states, I have a 2014 Protocol for Animal Complaint within the City of Kokomo. They are as follows:

1) Howard County Board of Health-Reporting agency for all animal bites with the City of Kokomo, and Howard County. A representative of HCBH will provide KPD and KAC with current animal bite reports initiated through there department on a timely basis.

2) City of Kokomo/ Kokomo Police Department-KPD will respond with Kokomo Animal Control Services to complaint of animal bites, animals chasing other animals or Humans. KPD will assist KAC to secure the scene and area of any aggressive animals. KAC will initiate an animal bite report and any additional information for follow up,

3) Kokomo Animal Control-Will respond to all animal complaints within the City of Kokomo during business hours currently designated as 9am to 7pm. KAC will respond after hours at the request of Kokomo Police Department via Howard County Communications Center. KAC will evaluate the call for service and give citations to owners of animals deemed to be in violation of City of Kokomo Ordinances.
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Cont. Ordinance #6769.
We are looking for Kokomo Animal Control to be the main agency that deals with any animal complaints with the assistance of the KPD. Reference to emergency situation where there is aggressive bite or an animal that is chasing another animal. We are going to monitor this. If any complaints are out there, they need to contact KPD so that our administration can re-visit that if needed.

Councilwoman Young states, citizens have said when they have problems with the animals in the evening they are not getting any response; so are we going to enforce this?

Councilman Summers states, the Animal Control at their facility is open actually from 8-4 after 4:00 the citizens need to call the KPD non-emergency number. I believe this is a good ordinance. I think it is going to take care of what we need to take care of.

President Kennedy states, if we find something is not working we can always change that as well.

Citizens who spoke on this ordinance: Lisa Rink, Pam Jones, Chris Altherr.

President Kennedy states, the current ordinance has several definitions for potentially dangerous dog: (1) Any dog which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the dog owner’s property. (2) Any dog which, when unprovoked, bites a person causing a less severe injury as defined above. (3) Any dog which, when unprovoked, has killed seriously bitten, inflicted injury or otherwise caused injury attacking a domestic animal off of the property of the owner or keeper of the dog. (4) Chases or menaces a person. (5) Runs at large.
Cont. Ordinance #6769.
Vote for passage follows:
Aye: Wyant, Cameron, Haworth, Hayes, Kennedy, Summers,
       Sanders, Miklik
Nay: Young
The vote was 8 to 1 for passage on second reading.

ORDINANCE 6771: AN AMENDMENT TO SMOKEFREE
ORDINANCE 6445 IN THE CITY OF
KOKOMO, INDIANA
Second reading
Ordinance 6771 was read by the Clerk by title only. Councilman
Hayes moved for passage on ordinance #6771 on second reading.
Seconded by Councilman Miklik.
Councilman Hayes states, I would like to make the following
amendments to the ordinance:

Section I of the amendment shall be amended to include a new
definition of Section 133.01 (I) as follows: “Retail Tobacco Store”
means a retail store that satisfies all of the following: 1. Derives
more than 85% of its quarterly revenue from the sale of tobacco
products, hookah, e-cigarettes or e-cigarette refill liquid; 2. Does not
allow individuals under the age of 18 to enter the premises; 3. Does
not serve or sell alcoholic beverages; 4. Does not serve food or
nonalcoholic beverages for consumption on the premises by
customers. 5. The definition of Retail Tobacco Store shall include
“Vapor Shops or Stores”

Section II of the amendment shall be amended to include an
additional definition to Section 133.01 which reads as follows:
“Cigar bar” means a bar that satisfies all of the following: 1.
Cont. Ordinance #6771.
Generates 55% or more of its quarterly gross revenue from the sale of alcoholic beverages for consumption on the premises by its customers; 2. Generates 35% or more of its quarterly gross revenue from the sale of the following for consumption on the premises by customers; cigars only; 3. Does not allow individuals under the age of 21 to enter the premises; 4. Does not allow smoking of cigarettes or e-cigarettes on the premises.

Section IV of the amendment shall be amended as follows: Section 133.05 shall be repealed in its entirely and replaced with the following two exemptions from Section III of amendment to Section 133.03 (A) A tobacco bar that, as of the date of enactment, was operating as a tobacco bar, if all of the following requirements are met: 1. Smoke from the tobacco bar does not migrate into an enclosed area where smoking is prohibited by this Ordinance or any other state of local law or regulation. 2. The tobacco bar satisfactorily reports on a quarterly basis to the City the revenue generated from the sale, for consumption on the premises by customers, of alcoholic beverages and cigars. This revenue must be reported on a form proscribed by the City as a percentage of quarterly gross revenue. The City may determine whether any additional documentation is required of the tobacco bar. 3. The tobacco bar does not expand in size or change its location after the date of enactment.

(B) A retail tobacco store, that as of the date of enactment, was operating as a retail tobacco store, if all of the following requirements are met: 1. Smoke from the retail tobacco store does not migrate into an enclosed area where smoking is prohibited by this Ordinance or any other state or local law or regulation. 2. The retail tobacco store satisfactorily reports on a quarterly basis to the City the revenue generated from the sale of tobacco products, hookah, e-cigarettes or e-cigarette refill liquid.
Cont. Ordinance #6771.
This revenue must be reported on a form prescribed by the City as a percentage of quarterly gross revenue. The City may determine whether any additional documentation is required of the tobacco store to authenticate or verify revenue data submitted by the tobacco store. 3. The retail tobacco store does not expand in size or change its location after the date of enactment.

This Section shall not apply to any business that is established for the purpose of avoiding compliance with this Ordinance. A tobacco bar or retail tobacco store that does not meet the requirements of this Section as of the date of enactment is not exempt from the requirements of Sections III and IV of this Ordinance and must immediately prohibit smoking on its premises. A tobacco bar or retail tobacco store that initially meets the requirements of this Section but later fails to meet the requirements of this Section no longer is exempt from the requirements of Sections III and IV of this Ordinance and shall immediately prohibit smoking on its premises and may not again qualify for the exemption under this Section.

President Kennedy states, the amendments will be handled as one. Councilman Hayes is looking for a second on this amendment. Seconded by Councilman Miklik.

All those in favor of voting for these amendments as read:
Aye: Young, Hayes, Sanders, Miklik
Nay: Wyant, Cameron, Haworth, Kennedy, Summers
The vote was 5 to 4.
The amendments were turned down.

Councilman Hayes moved for passage on ordinance #6771 on second reading (As Amended) at the previous meeting on first reading. Seconded by Councilwoman Sanders.
Cont. Ordinance #6771.
Councilman Hayes states, this ordinance is an amendment to the pre-existing SmokeFree Ordinance #6445 of the City of Kokomo.

Councilman Cameron states, my stand-point on this smoking, I don’t like smoking but I don’t feel you should take your rights away from someone that has a business. If this coalition really wants to do some good on smoking they should go around these grade schools. My wife had cancer back to back. She never smoked. I asked her about this. She said I don’t feel that you have the right as a Councilman to take the rights away from these people.

Councilman Wyant states, I agree with Councilman Cameron.

Councilman Miklik states, thank you all for coming; because this is really what the process is about. We as a Community have to represent all the people not just 1%. I want to see a level playing field for the entire community. I want our community that has made huge investments to be able to recognize the fact. Smoke at home, smoke where you are; but we are not going to smoke in the other establishments. That’s the direction I hope our City goes as a community.


President Kennedy states, if I offended anyone here this evening by trying to hurry the comments along and trying to get as many people in; I apologize. The nature of the meeting is that’s the way we have to go; so everyone can get their thoughts, and opinions. I appreciate all of you being here.
Cont. Ordinance #6771.
I appreciate the civil way you have behaved in this room; by allowing those who speak that you do not agree with. I do want to commend you for your passion and your enthusiasm on what-ever side you are on. How-ever the vote goes I hope you appreciate the job that this Council has to do on a daily basis.

Councilman Hayes states, tonight we have an opportunity facing each and every one of us. I would like to thank President Kennedy for allowing this to even come on the agenda. I appreciate it. I also would like to thank my fellow colleagues we agree to dis-agree tonight. The vote is with you. It’s your decision, and that’s why most of my comments are going to be directed to you. You say we are here to educate the children; we need to make sure that we know the children are watching us tonight. There is not one person in this room I would dare say that would want their grandchildren to start smoking. No one is taking anyone’s rights away. Many of you in this room have fought for our rights; just like Firefighters, Police Officers, they protect this community; and you have a Council that has to vote its congress. Each and every one of these people up here is good people. They have to make a tough decision. If asked to do this again and share this I would do it again whole heartily. This is what I feel is the right thing to do. It is a health issue, and I encourage my colleagues to vote in favor of this. It is a health issue and how many must die before we get it. Here is an opportunity to truly lead this community.

All those in favor:
Aye: Young, Hayes, Sanders, Miklik
Nay: Wyant, Cameron, Haworth, Kennedy Summers
The vote was 5 to 4.
The Ordinance was voted down.
President Kennedy states, our next Council Meeting will be September 29th, 2014 with an Informational Meeting at 6:30 P.M. in the Louks Room. Public Hearing at 7:00 P.M in the Council Chambers; and Council Meeting immediately follows.

Adjourned at 9:00 P.M.

________________________________________________________________________
PRESIDING OFFICER

ATTEST:

________________________________________________________________________
CITY CLERK