

**COOKEVILLE CITY COUNCIL  
REGULAR MEETING  
JUNE 16, 2011  
5:30 P.M.**

The Council of the City of Cookeville met in regular session on Thursday, June 16, 2011, at 5:30 p.m., in the Municipal Building, 45 East Broad Street. Mayor Swallows called for a moment of silent prayer, and led the audience in the Pledge of Allegiance. Mayor Swallows then called the meeting to order and asked the Clerk to call the roll. Present and answering roll call were:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

Also present: Jim Shipley, City Manager; Cathy McClain, City Clerk; and Dan Rader, City Attorney.

**CONSIDER APPROVAL OF  
AGENDA AS PRESENTED**

Councilman Anderson made a motion, seconded by Councilman Woodford, to withdraw item #11 – consider approval of agreement with Docview, LLC – Police Department and to approve the agenda as amended. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**OLD BUSINESS:**

**CONSIDER APPROVAL OF MINUTES  
OF COUNCIL MEETING HELD ON  
JUNE 2, 2011**

Councilman Woodford made a motion to dispense with the reading of the minutes and approve said minutes as submitted. The motion was seconded by Councilman Albrecht. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**CONSIDER ON SECOND AND  
FINAL READING ORDINANCE  
#O11-06-09, AMENDING THE  
BUDGETS FOR THE VARIOUS  
FUNDS/DEPTS. OF THE CITY  
OF COOKEVILLE, TN, FOR  
THE FISCAL YEAR ENDED  
6-30-11**

**COOKEVILLE CITY COUNCIL  
MINUTES  
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Councilman Albrecht made a motion, seconded by Vice-Mayor Epps, to approve on second and final reading Ordinance #O11-06-09. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**NEW BUSINESS:**

**HOLD A PUBLIC HEARING AND  
CONSIDER ON FIRST READING  
ORDINANCE #O11-06-10,  
PROVIDING A TAX LEVY FOR  
THE 2011-2012 FISCAL YEAR**

Mike Davidson, Finance Director, reported the following:

**Preliminary  
Property Tax Allocation**

- Preliminary Certified Tax Rate
- Final Certified Tax Rate Determined Early July
- Property Tax Revenues based on preliminary assessments

Proposed Property Tax Rate

<u>Fund</u>	<u>2010 Tax Rate</u>	<u>Preliminary</u>		<u>Revenue</u>
		<u>2011 Proposed</u>		
General Fund	\$0.74	0.7200		\$5,071,100
G.O. Debt Service Fund	0.04	0.0600		422,700
State Street Aid	0.04	0.0000		0
Economic Development Fund	0.04	0.0400		282,100
Quality of Life Fund	0.01	0.0100		70,410
<b>Total</b>	<b>\$0.87</b>	<b>0.8300</b>		<b>\$5,846,310</b>

One Penny on the tax rate is projected to generate \$70,410

Councilman Anderson made a motion, seconded by Vice-Mayor Epps, to approve on first reading Ordinance #O11-06-10. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**HOLD A PUBLIC HEARING AND  
CONSIDER ON FIRST READING  
ORDINANCE #O11-06-11,  
AUTHORIZING  
APPROPRIATIONS FOR  
FINANCIAL AID TO PUBLIC  
SERVICE, NON-PROFIT, AND  
CHARITABLE  
ORGANIZATIONS FOR THE  
2011-2012 FISCAL YEAR**

**COOKEVILLE CITY COUNCIL  
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Mike Davidson, Finance Director, gave a detailed report.

Vice-Mayor Epps made a motion, seconded by Councilman Albrecht, to approve on first reading Ordinance #O11-06-11. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**HOLD A PUBLIC HEARING AND  
CONSIDER ON FIRST READING  
ORDINANCE #O11-06-12,  
MAKING APPROPRIATIONS  
FOR THE VARIOUS FUNDS,  
DEPTS. AND AGENCIES OF  
THE CITY OF COOKEVILLE,  
TN FOR THE 2011-2012  
FISCAL YEAR**

Mike Davidson, Finance Director, gave a detailed report.

Councilman Anderson made a motion, seconded by Councilman Albrecht, to approve on first reading Ordinance #O11-06-12. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**CONSIDER RESOLUTION #R11-06-06,  
EXPRESSING INTENT TO REIMBURSE  
EXPENDITURES OF CERTAIN PUBLIC  
WORKS PROJECTS FROM PROCEEDS  
OF NOTES, BONDS, OR OTHER  
INDEBTEDNESS TO BE ISSUED BY  
THE CITY**

Councilman Albrecht made a motion, seconded by Councilman Anderson, to adopt Resolution #R11-06-06 (new Electric Dept. Substation). Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**COOKEVILLE CITY COUNCIL  
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**CONSIDER APPROVAL OF  
AGREEMENT BETWEEN  
PUTNAM COUNTY & CITY  
OF COOKEVILLE RELATIVE  
TO THE PUTNAM COUNTY  
LIBRARY**

Jim Shipley, City Manager, gave the following report:

- Formally establishes a joint venture between the city and county.
- The budget of the Library will be funded by both the city and the county. Funding shall be allocated in the same manner as all other requests from the city or county departments, offices and non-profit agencies.
- The county will appoint 4 members to the library board, and the city will appoint 3 members.
  
- The employees of the library will be county employees.
- The county will be responsibility for maintaining the land and building.

Councilman Albrecht made a motion, seconded by Councilman Anderson, to approve the agreement with Putnam County relative to the Putnam County Library. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**CONSIDER REAPPOINTMENT  
TO THE UPPER CUMBERLAND  
REGIONAL LIBRARY BOARD**

COOKEVILLE CITY COUNCIL  
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**Putnam County Library System**

50 E. Broad Street • Cookeville, TN 38501-3210  
Phone: (931) 526-2416 • Fax: (931) 372-8517

June 10, 2011

Cookeville City Council  
45 E. Broad St.  
Cookeville, TN 38501

Dear Council Members:

Marla Williams's term as one of Putnam County's representatives to the Upper Cumberland Regional Library Board has expired. The Putnam County Library Board of Trustees respectfully recommends that Ms. Williams be reappointed as the Cookeville representative to the Regional Library Board. Ms. Williams is very interested in libraries and has served on both the local library board and the regional library board. Please reappoint her to a three-year term on the Upper Cumberland Regional Library Board.

Sincerely,



Clay Robertson  
Putnam County Library

Mayor Swallows made a motion, seconded by Councilman Albrecht, to reappoint Marla Williams to the Upper Cumberland Regional Library Board as recommended. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**CONSIDER APPROVAL OF  
AGREEMENT FOR GIS  
SOFTWARE**

Jeff Littrell, Codes Department Director, gave the following report:

***GIS Software***

- ***ESRI Small Municipality and County Government Enterprise License Agreement***
- ***The Enterprise License Agreement will give the city unlimited licenses for ESRI software which will expand and enhance our current GIS and mapping capabilities***
- ***Cost is \$35,000 per year***
  - ***General Fund - \$12,500***
  - ***Electric Department - \$7,500***
  - ***Gas Department - \$7,500***
  - ***Water Department - \$7,500***
- ***3-year contract with ESRI***

**COOKEVILLE CITY COUNCIL  
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Councilman Anderson made a motion, seconded by Vice-Mayor Epps, to approve the agreement for GIS software as submitted. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**HOLD A PUBLIC HEARING  
RELATIVE TO THE "EDWARD  
BYRNE MEMORIAL JUSTICE  
ASSISTANCE GRANT PROGRAM"**

Melinda Keifer, Economic & Community Development Coordinator, gave the following report:

**Edward Byrne Memorial Justice Assistance  
Grant Program  
2011 Local Solicitation**

**Grant Amount:** \$11,532.00

**No match**

**Program Requirements:** Public hearing to inform the public that the City has applied for funds.

**Purpose Areas**

Law enforcement programs  
Prosecution and court  
Prevention and education programs  
Corrections programs  
Drug treatment and enforcement programs  
Planning, evaluation and technology improvement programs  
Crime victim and witness programs

\*\* The City of Cookeville Police Department and the Putnam County Sheriff's Department share this grant with a 60/40 split each year. The 2011 grant solicitation will be written for new radios for the County (\$4,613.00) and additional mobile data units and/or replacement of patrol side-arms for the City.

Councilman Woodford made a motion, seconded by Councilman Albrecht, to approve the "Edward Byrne Memorial Justice Assistance Grant Program" as submitted. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

**HEARING OF CITIZENS AND/OR DELEGATIONS:**

Dan Rader, City Attorney, gave the following detailed quarry report to the residents of the Beverly Hills Subdivision:

COOKEVILLE CITY COUNCIL  
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- Quarry in existence at least since 1930's.
  
- Putnam County operated Quarry for many years.
  
- Putnam County sued by 59 property owners in area in 1984.
  
- Some evidence was:
  - Cracks in foundation, caused barn to fall, rocks thrown on land.
  - Large rocks thrown into garden and driveway.
  - Rock thrown in swimming pool causing it to crack.
  - Rock from quarry came through garage roof and burst table.
  - Rock thrown ten feet from home.
  - Flying rock struck and killed a calf.
  - Flying rock went through roof and into bath tub.

Chancellor ruled that the Quarry was a nuisance, and ruled as follows:

- "The explosion of dynamite in blasting stone in the operation of the defendants' quarry, which causes rocks to be thrown upon plaintiffs' premises, and sets up vibrations, causing the houses to shake and vibrate so as to disturb and annoy plaintiffs and their families in the use and enjoyment of their homes constitutes a nuisance."
- Defendants have a right to quarry stone on their property and plaintiffs enjoy the right of undisturbed use and possession of their houses. If these rights conflict, the right of defendants to operate the quarry must yield.
- ...[T]he defendants are operating a nuisance that should be abated.
- The Court will grant an injunction ordering the defendants to cease operating their quarry in such a way as to throw rocks on the plaintiffs' premises or jar the houses or plaintiffs to such an extent as to interfere with the comfortable and reasonable enjoyment of their homes.

- In 2000 Property annexed into the City.
  
- Use "Grandfathered" in TCA §13-7-208.
  
- In 2004 Cookeville Limestone, LLC began operating Quarry.

• Controlled by State of Tennessee  
 – Blasting

239		BLASTING AND EXPLOSIVES		68-105-102	
CHAPTER 105					
BLASTING AND EXPLOSIVES					
SECTION			SECTION		
68-105-102. Definitions.	68-105-103. Requirements governing blasting.	68-105-109. Notification of accidents -- Cesse-	68-105-110. Notification of accidents -- Cesse-	68-105-111. Notification of accidents -- Cesse-	68-105-112. Notification of accidents -- Cesse-
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68-105-105. Registration of explosives users --	68-105-106. Registration of explosives users --	68-105-121. Hearings and judicial	68-105-122. Hearings and judicial	68-105-123. Hearings and judicial	68-105-124. Hearings and judicial
68-105-106. Registration of explosives users --	68-105-107. Records.	68-105-125. Hearings and judicial	68-105-126. Hearings and judicial	68-105-127. Hearings and judicial	68-105-128. Hearings and judicial
68-105-107. Records.		68-105-129. Hearings and judicial	68-105-130. Hearings and judicial	68-105-131. Hearings and judicial	68-105-132. Hearings and judicial

68-105-102. Definitions. — As used in this chapter, unless the context otherwise requires:

- (1) "ATF" means the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice;
- (2) "ATF permit or license" means the permit or license issued by the ATF and required by 18 U.S.C. § 842 for any person who intends to engage in business as an explosive materials user, importer, manufacturer, or dealer;
- (3) "Airblast" means a pressure wave from a blast traveling through the atmosphere;
- (4) "Blast" or "shot" means the act of detonating explosive materials joined by a shared initiation system and a single firing device;
- (5) "Blast hole" means a hole drilled in rock or other material for the placement of explosives;
- (6) "Blastor" means a person qualified by reason of training, knowledge, experience and registration to fire or detonate explosives in blasting operations;
- (7) "Blasting operation" means the use of explosives in the blasting of stone, rock, ore or any other natural formation, or in any construction or demolition work;
- (8) "Charge" means a quantity of explosives that is to be detonated within a segregated position in the blast design;
- (9) "Commissioner" means commissioner of commerce and insurance;
- (10) "Delay" means a period of time until detonation after application of energy to the ignition system;
- (11) "Delay period" means a time separation of eight (8) milliseconds or greater between detonation of charges;
- (12) "Department" means the department of commerce and insurance;
- (13) "Distance" means the actual distance in feet along ground contour to the nearest dwelling house, public building, school, church, commercial or institutional building normally occupied;
- (14) "Explosives" means any chemical compound or other substance or mechanical system intended for the purpose of producing an explosion, or that contains oxidizing and combustible units or other ingredients in such proportion or quantities that ignition by detonation may produce an explosion, capable of causing injury to persons or damage to property;
- (15) "Handler" means a person qualified by reason of training, knowledge, experience and registration to accept custody and possession of explosives in

RULES  
 OF  
 DEPARTMENT OF COMMERCE AND INSURANCE  
 DIVISION OF FIRE PREVENTION

CHAPTER 0780-02-15  
 BLASTING STANDARDS

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0780-02-15-.03 Registration and Fees	0780-02-15-.08 Phosphoric Materials or Binary Materials
0780-02-15-.04 Classifications of Registration	0780-02-15-.09 Repealed
0780-02-15-.05 Continuing Education	0780-02-15-.10 Repealed
	0780-02-15-.11 Repealed

0780-02-15-.01 DEFINITIONS.

- (1) For purposes of this chapter, except where the context otherwise requires, the definitions applicable to this chapter are those found in Tenn. Code Ann. § 68-105-102. In addition, the following definitions are applicable to the standards adopted in rule 0780-02-15-.02.
  - (a) "Blast area" means the area including the blast site and the immediate adjacent area within the influence of flying rock, missiles and concussion.
  - (b) "Blast site" means the area where explosive material is handled during loading of the blast hole, including fifty (50) feet in all directions from the perimeter formed by the loaded holes. A minimum of thirty (30) feet can replace the fifty (50) feet requirement if the perimeter for loaded holes is marked and separated from the non-blast site areas by a barrier. The fifty (50) feet distance requirements, as applicable, apply in all directions along the full depth of the blasthole. In underground blasts, at least fifteen (15) feet of solid rib, pillar or broken rock can be substituted for the fifty (50) feet distance.
  - (c) "Blast zone" means the area beyond the blast area that may be influenced by blasting operations. Areas beyond the initial blast area must have reasonable precautionary measures such as posting of signs and guards and redirection of traffic.
  - (d) "Binary explosive" means a blasting explosive formed by mixing or combining two (2) phosphoric materials which must be specifically packaged for that purpose (for example, ammonium nitrate and nitromethane).
  - (e) "Bulk mix" means a mass of explosive material prepared for use in bulk form without packaging.
  - (f) "Bulk mix delivery equipment" means equipment (usually a motor vehicle with or without a mechanical delivery device) that transports explosive materials in bulk form for mixing or loading directly into boreholes or both.
  - (g) "Fire-resistant construction" means construction designed to provide reasonable protection against fire. For exterior walls of magazines constructed of wood, this is defined as the fire resistance equivalency provided by sheet metal of not less than twenty-six (26) gauge.
  - (h) "Flyrock" means any dirt, mud, stone, fragmented rock or other material that is displaced from the point of the blast, traveling in the air or along the ground.

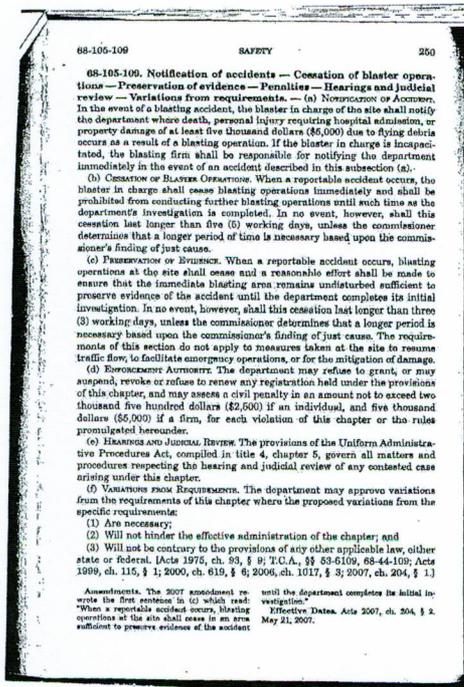
COOKEVILLE CITY COUNCIL  
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BLASTING COMPLAINT PROCEDURES

The Department of Commerce and Insurance's State Fire Marshal's Office will conduct investigations into blasting complaints.

If you have concerns regarding blasting in your area, contact the State Fire Marshal's Office at 615-741-7190.

- ❖ The identity of the person making the complaint will be kept confidential during the investigation, but becomes public record once the investigation is complete.
- ❖ Each complainant should have the following information available when calling the State Fire Marshal's Office:
  - Complainant's name, address, city, state, zip code, and telephone number(s).
  - Location of complaint including both city and county.
  - Person or company causing the complaint, including address, telephone number, license numbers, etc.
  - Description of complaint, dates, and times of incidents.
- ❖ Complaints will be routed to the responsible inspector for investigation.
- ❖ At no time during the investigation are records open to the public. Investigation information is confidential until the matter has come to a conclusion. At the conclusion of the investigations, the complainant is notified in writing as to the final outcome and the records become public information.



- Air Quality Control
  - Also controlled by State of Tennessee.
- The operation of the Quarry is
  - Not controlled by the City of Cookeville
  - Not controlled by Putnam County.
  - Go to Tn.Gov for the State citations.

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What Can Be Done:

- File a formal complaint with the State.
- Keep a log of blasting/air incidents.
- File a private suit against the Quarry operators – just as was done against Putnam County.

Dan Rader, City Attorney, advised that he will contact Jeff Jones, Attorney for Putnam County, and recommend that the County pass a rule that all their trucks be covered when transporting rock or etc.

Anna Ruth Burroughs thanked Mr. Rader for his work done on the history of the quarry.

Dan Rader, City Attorney, also advised that on 6-10-11 the State Legislatures approved the sell of wine at CPAC & consumption at Dogwood Park.

Bob Terry, Police Chief, advised that on 5-23-11 the State Legislatures approved a new law that “Bath Salts (Molly’s Plant Food approved on 3-11-11)” to be illegal in the State of Tennessee.

Councilman Anderson reminded everyone of the concerts in the Dogwood Park on Sundays at 2 p.m.

Mayor Swallows reported that sales tax is up 7%/year to date up 3% & congratulated our new Fire Chief Roger Fuqua!!!

There being no further business to discuss, Councilman Anderson made a motion, seconded by Councilman Woodford, to adjourn the meeting at 6:55 p.m. Upon call for a vote, the following voted aye:

Mayor Matt Swallows  
Vice-Mayor Larry Epps  
Councilman Connie Albrecht  
Councilman Alma Anderson  
Councilman Jim Woodford

The City Clerk announced that the motion carried.

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Matt Swallows, Mayor

ATTEST:

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Cathy McClain, City Clerk