

CITY COMMISSION MEETING  
AGENDA FOR NOVEMBER 19, 2013

**5:30 P.M.**

**ROLL CALL**

**INVOCATION**

**PLEDGE OF ALLEGIANCE – Michael-Ellen Walden – Paducah Tilghman High School  
Freshman**

**PRESENTATION –Paducah-McCracken County Joint Sewer Agency Project Briefing – J.  
HODGES**

**ADDITIONS/DELETIONS**

	<b>I.</b>	<b><u>ORDINANCE – INTRODUCTION</u></b>
		A. Request for Loan Guaranty Renewal for GPEDC Loan – CITY MGR
	<b>II.</b>	<b><u>CITY MANAGER REPORT</u></b>
	<b>III.</b>	<b><u>MAYOR &amp; COMMISSIONER COMMENTS</u></b>
	<b>IV.</b>	<b><u>PUBLIC COMMENTS</u></b>
	<b>V.</b>	<b><u>EXECUTIVE SESSION</u></b>

# Agenda Action Form

## Paducah City Commission

Meeting Date: November 19, 2013

### Short Title: Information Age Park Loan Guaranty - Renewal

Ordinance  Emergency  Municipal Order  Resolution  Motion

Staff Work By: Jeff Pederson, Jonathan Perkins  
Presentation By: Jeff Pederson

### Background Information:

In 2003, The Kentucky Economic Development Finance Authority (KEDFA) reissued a loan of about \$3.5 million to GPEDC for construction of the Information Age Park. KEDFA offered to reduce the interest rate on the loan from 8% to 3% and extend the loan terms for five more years at 2% interest if GPEDC made an immediate payment of \$443,751. GPEDC negotiated a loan with Union Planters Bank for the payment of \$443,751, subject to a guaranty by the City of Paducah and McCracken County.

The original loan of \$443,751 to Regions Bank (formerly Union Planters Bank) is up for renewal, with the balance now being \$361,437.97. GPEDC will make an immediate payment on the principal balance of \$20,000 when the note renews, leaving a balance of \$341,437.97. GPEDC is obligated to make the minimum payment of \$20,000 annually on the principal, plus interest.

**Goal:**  Strong Economy  Quality Services  Vital Neighborhoods  Restored Downtowns

**Funds Available:** Account Name:  
Account Number:

Finance
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**Staff Recommendation:** Adopt an Ordinance authorizing the Mayor to execute a Loan Guaranty instrument with Regions Bank (formerly Union Planters Bank).

Department Head	City Clerk	 City Manager
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# Paducah

ECONOMIC DEVELOPMENT

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November 14, 2013

Mr. Jeff Pederson  
City Manager  
City of Paducah  
PO Box 2267  
Paducah, KY 42002-2267

Re: Letter of Request; Paducah Economic Development (GPEDC, Inc.) Note at Regions Bank

Dear Jeff,

As a follow-up to the phone call and emails regarding the note GPEDC, Inc. has with Regions Bank, we would like the City of Paducah to continue its previous role in guaranteeing the note as it has done since 2003. GPEDC, Inc. pays \$20,000 each year to reduce the note, plus the quarterly interest payments. The note is renewed annually each November.

The original note was for \$443,751.28 and it was used to pay interest on the \$3.5 million loan with KEDFA (Kentucky Economic Development Finance Authority) for funding of the Information Age Park. GPEDC, Inc. continues to pay down on the KEDFA note as well as the one with Regions Bank.

We appreciate the City of Paducah's past guarantee of the note, along with McCracken County, and ask that the City again approve Mayor Kaler executing the document with Regions Bank.

Sincerely,



Chad Chancellor  
President/CEO

WHITLOW, ROBERTS, HOUSTON & STRAUB, PLLC  
Attorneys at Law

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Gary B. Houston  
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FINANCE DEPARTMENT  
FEB 19 2004

March 19, 2003

Of Counsel  
Anne F. Gwino

Mr. Danny James  
Union Planters Bank, N.A.  
P. O. Box 2200  
Paducah, KY 42002-2200

*Jim  
you need to put  
this at the top  
Tuesday Bell*

Re: City Guarantee of GPEDC Obligation

Dear Danny:

You have asked me to review the legality of the City of Paducah's guarantee of the GPEDC loan from Union Planters Bank. The purpose of the loan is to pay interest to an agency of the Commonwealth of Kentucky on the Commonwealth's loan to GPEDC, Inc., which is secured by a first mortgage on most of the Information Age Park. The City Attorney, David Denton, raised a question as to whether the City could act as a guarantor of this obligation based upon Kentucky Constitution Section 179 which states that the General Assembly shall not authorize any county or subdivision thereof, city, town or incorporated district to loan its credit to any corporation, association or individual except for the purpose of constructing or maintaining bridges, turnpike roads or gravel roads. A literal reading of this constitutional provision would lead to the conclusion that the City's guarantee of the obligation is improper.

However, Kentucky courts have taken an expansive view of Section 179 and have concluded that it does not prohibit a city from extending its credit or money for activities deemed to be for public purposes. Ezelle v. City of Paducah, 411 S.W.2d 162 (1969); Board of Trustees of Reform v. City of Lexington, 65 S.W. 350 (1901). Also, opinions from the Kentucky Attorney General support the position stated in these cases that the City can use its funds to assist public purposes. OAG 99-5.

Mr. Danny James  
March 19, 2003  
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The concept of "public purpose" has been applied broadly by the Kentucky Attorney General. OAG 77-124. In this opinion, the Attorney General states that:

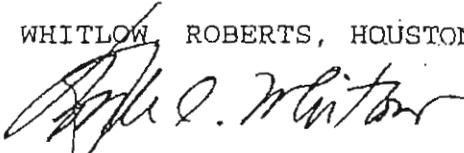
The test of a public purpose should be whether the expenditure confers a direct benefit of reasonably general character to a significant part of the public, as distinguished from a remote or theoretical benefit.

The Kentucky General Assembly created the Industrial Development Authority law which has been utilized by the City and County in establishing the Paducah-McCracken County Industrial Development Authority. This statute, KRS 154.50-346, acknowledges that the acquisition of lands for industrial sites is a public and governmental function and an exercise for a public purpose. Although the Industrial Development Authority law does not apply to GPEDC, its provisions give support to the functions of GPEDC as encompassing a public purpose which would insulate the City's guarantee from violation of Kentucky Constitution Section 179.

From my review of the applicable laws, it is my opinion that the City may act as a guarantor of the GPEDC, Inc., loan from Union Planters Bank. If you have any addition questions, please contact me. Thank you for referring this matter to me for review.

Sincerely,

WHITLOW, ROBERTS, HOUSTON & STRAUB, PLLC



Mark C. Whitlow  
[mwhitlow@whitlow-law.com](mailto:mwhitlow@whitlow-law.com)

MCW:blh  
cc: Jim Zumwalt  
David Denton, Esq.

