

Ontario City Council met in regular session on November 6, 2008 in the City Offices, with Council President Dave Metzger presiding. The meeting opened at 7:00 p.m. with the Pledge of Allegiance.

The following persons were in attendance when roll was called: Council members Dan Zeiter, Mark Weidemyre, Leon Blackwell, Barry Lewis, and Paul Williams; Mr. Metzger; Mayor Kenneth Bender; Law Director Rebecca Thomas; Service/Safety Director Charles Au; and Clerk of Council Cathy VanAuker. A number of interested citizens were present in the audience.

Mr. Williams made a motion to excuse Mrs. Hellinger and Mr. Cinadr from this evening's meeting. Mr. Weidemyre seconded the motion. At roll call, five members voted Aye, zero Nay, and the motion was approved.

The minutes of the regular Council meeting of October 16, 2008 were presented for approval. Mr. Blackwell made a motion to approve the minutes and Mr. Williams seconded the motion. At roll call, five members voted Aye, zero Nay, and the motion to approve the minutes passed.

PUBLIC COMMENTARY

Matt Dille, 712 N. Rock Road, came before Council to say: It's been awhile since I stopped up here and asked a question. I just want to follow-up since it's been about five weeks and specifically addressing our issues with Chief McClaran. Do we have any update for the public, anything for the taxpayers, in regards to this issue?

Mrs. Thomas replied: Nothing for the public. When Mr. Dille asked, "why", Mrs. Thomas responded, I can't even give you that information. It's still pending, so it's no comment.

Mr. Dille continued, I understand, but I'm going to keep coming back up and I'm going to keep asking until the public gets an answer. I understand there is some reason there, I don't know what it is, but there's got to be some reason somewhere. I have heard from a number of Council members in regards to this issue, specifically, Mr. Zeiter, Mr. Weidemyre and Mr. Lewis. However, I see we have a couple of Council members who aren't here. I would like to know, possibly, from the 4th Ward Council member and the At-Large Council member that are present, where they stand in their personal opinion being that this is a representative republic, what they feel in regards to this issue. Do you agree with the actions taken by the Administration and the money spent in regards to this issue or do you think that it was more along the lines of a reckless use of public funds, or something like that? That's what I would like to know from my representatives.

Mr. Blackwell responded by saying: Sounds like you made a political speech. If you have a question you can direct it, if you want to make a political speech I'm not going to answer it. Mr. Dille stated that he did ask a question.

Mr. Williams responded: I have no comment.

Mr. Dille addressed the Council President: Mr. Metzger, I believe I did ask a question, did I not, sir? Mr. Metzger replied: You asked a question. Mr. Dille reiterated: For the record, both Council members stated they have no comment so the public can rest assure they are not going to answer any questions regarding this? Thank you very much.

Next to address Council was Robert Stout, 2393 Whitney Avenue. Mr. Stout circulated a handout to Council and then stated: As my attorney instructed me on September 16th of this year, I filed an Application for Amendment to the Zoning Ordinance of the property located at 2248 Ferguson Road in Ontario. I received a letter dated October 1st from Mr. Rohal stating the application can not proceed because the owner of the property has not signed the application. Also, the fee was not paid. According to Ontario's zoning requirements, this application should have been accepted. The State of Ohio gives broad direction on zoning requirements to cities,

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townships, so on and so forth, like in Toledo vs. Ross. Under Ontario zoning requirements they permit an interested person to seek a change in local zoning amendment. Please note, an interested person is not defined by Ontario zoning requirements. Our current law director many years ago instructed me on the meaning of pure and simple language. My current attorneys have instructed me, once this piece of property was proposed to be developed into a large apartment complex, this would have had such a profound and devastating impact in our neighborhood that anyone may be considered an interested person. With new insight, and under the direction of my attorneys, I once again attempted to re-file for an Amendment to the Zoning Ordinance on October 31st. This application was refused, stating the property owner's signature missing.

I would like Council, please, to refer to Section 1151.05 AMENDMENTS (a) Initiation. The provisions of this Zoning Ordinance and the Official Zoning District Map may, from time to time, be amended by City Council by ordinance. Such amendment may be initiated by one of the following procedures: (1) By filing a application with the Clerk of Council on a form provided and signed by the property owner of the land seeking the amendment or by any interested person seeking an amendment to the district regulations of this Ordinance. Such application shall be accompanied by a fee as required in Section 1149.04, "Permit and Certificate Filing Fees".

Mr. Stout continued: Council themselves may also act under Ontario zoning requirements and under state law to protect other property owners in the community, Franchise vs. Cincinnati states, there is a legitimate governmental interest in maintaining the esthetics of the community. In Turner vs. Inglewood, the city rezoned property to a single family residential use for the concerns, for the safety and welfare of the community.

For me not be considered as a big bad wolf of the neighborhood, I call tonight upon Council to make a motion to amend Ward 3 zoning for all areas in our neighborhood and rezone them to zone one. Once again, please refer back to Section 1151.05 (2), and this is what Council is permitted to do. "By motion of City Council directed to the Planning Commission and requesting a recommendation concerning an amendment to the text or a change to the Official Zoning District Map of this Ordinance of a zoning district or overlay zoning district for any parcel of land within the City." There is case law from the State of Ohio that backs these decisions. Once again, I call on Council tonight for their motion. Thank you very much.

Mr. Metzger decided to continue Public Commentary and address Mr. Stout's request during Miscellaneous Matters.

Next to approach Council was Wallace Windham of 2476 Ferguson Road to say: I have lived there since March 1, 1998 and ever since I have moved there, my wife and I have gotten twelve tickets from the Ontario Police Department. One particular officer has given me eight tickets. My wife has gotten tickets on Ferguson Road, we have been harassed, threatened, humiliated and mistreated. I have a complaint here, I filed one before in 2004 or 2005, and I have another complaint that I'm filing for the treatment of these tickets that are starting to come back at us again. I want to know who I can give this complaint. Mr. Metzger instructed Mr. Windham to give his written complaint to the Law Director.

Mr. Lewis asked Mr. Windham if he had traffic tickets or parking tickets. Mr. Windham responded they were traffic tickets. He continued to say: I've received five tickets on Ferguson Road, my wife has received one speeding ticket and I have four, and I've gotten tickets from all over the place, and have been stopped numerous times. This one particular officer almost got me and my children killed. I was taking them to school and he happened to just want to give me a ticket, he gave me two tickets in the process of stopping me because he thought I didn't have a driver's license. He pulled me over and I showed him my license, so he gave me two tickets for not having a Richland County sticker on my license. My front license had fallen off and I didn't know it, and he gave me a ticket for that. He said since I had a license, he would find something on my car. He gave me two tickets for that. Like I said, I'm just fed up with getting all of these tickets and citations and being hassled and mistreated since we moved out here. I was out here eighteen days, from March 1st to March 18th when I got my first ticket and I've

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been getting them ever since. By this one particular officer, I've gotten eight tickets from this one guy. He's threatened me, he pulled me over, unfastened his gun and threaten me that way. I thought he was going to kill me one time just on a traffic stop. I can get the records from the lady where I've gotten these tickets to show you that I'm not just making this up.

Mr. Metzger advised Mr. Windham to let the Law Director take care of this and if he doesn't hear anything he should call. Mr. Windham added that he filed a complaint four years ago, the captain was to get back with him after the investigation but he has not heard back from him. Mr. Windham gave his written complaint to Mrs. Thomas.

Mark Arnold, 182 Lexington-Ontario Road, was next to come before Council to say: It's been awhile since I came up before you. The last time I came I was shut down in relation to the mediation. It was explained that I should not talk about the mediation session that occurred in January due to the fact that I may be civilly liable for comments made that was in some mediation session. Although that was recorded and my statements were recorded in the public commentary, I have checked with my personal lawyer and he is questioning whether the facts are straight from Mrs. Thomas on the ridiculous offer that was made to Chief McClaran in January. I respectfully request a written explanation from Mrs. Thomas on her statement about that I would be civilly liable and that you can not talk about the January mediation session. I would appreciate it if I could get a written response from the Law Director.

It still concerns me, every once in awhile I keep in contact with what's going on out here and people ask me, as a former two term councilman. I get concerned when I hear about at the last meeting where some Council members chose to stay outside of an executive session. I question don't people have individual rights. If you so desire during a meeting you can get up and walk out and do whatever you so choose because you have that right. To have someone come out to say that you have to go into an executive session if you're here, I just don't understand that. And, I'm hoping that you as Council are continuing to ask for written direction from the Law Director so that you in turn can have something to cite in the future because this sort of stuff, shooting from the hip, concerns me the direction you're being given. It's more of a comment than anything. I've been here eight years and I've never had a situation where I felt confused about my rights as an individual or as a Councilman. Thank you for your time.

COMMITTEE REPORTS

Mr. Zeiter commented on two Finance meetings that were held October 29th and November 3rd to review the 2009 temporary appropriations for the City. Both meetings were very productive and the suggested adjustments will be made.

- Mr. Metzger asked if a line item was included in the budget for the Charter Commission to cover expenses such as attorney fees and materials. Mrs. Thomas said there should be one line item for the Charter. Mrs. Thomas will call the first meeting.

Mr. Weidemyre provided information regarding the Streets Committee meeting held earlier this evening. The paving program for next year was discussed, as well as sidewalks, and ODOT will fund 80% for the paving of Park Avenue but a timeframe has not yet been established.

Mr. Blackwell scheduled a Personnel meeting on November 20, 2008 at 5:30 p.m.

Mr. Lewis and Mr. Williams and had no report this evening.

MAYOR'S REPORT

Mayor Bender reported on several items.

- Trick or Treat night went without incident and it appeared everyone had a good time.
- Leaf pick-up is continuing as long as weather permits. A complete sweep has been made and now the pick-up is as needed.

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- Bids will be opened tomorrow morning at 11:00 a.m. for the Rock Road drainage area I&I Phase 2.
- The copper roof for the Community Room was delivered today and installation will begin on Monday.

Mr. Zeiter referenced the increase in the local deer population then asked the Mayor if his answer is still “no” if people want to fill out an application to hunt within the City. Mayor Bender said there are two designated areas, the same as last year, and they are the only areas he looked at with the Safety Director and the Chief of Police to see where there was a safe area. The property owners have to be contacted. Interested hunters should contact him to find out where these areas are located, he will also provide them with a map and contact information for the property owners.

SERVICE/SAFETY DIRECTOR’S REPORT

Mr. Au had no report.

LAW DIRECTOR’S REPORT

Mrs. Thomas had not report.

Mr. Lewis asked about the status for recovering funds on the water bills. Mrs. Thomas said the timeframe for the federal legislation changed from November to May. She is working on gathering all of the information from the administrative agencies, which also has to do with the identity theft, and it all has to go in together for collections.

MISCELLANEOUS MATTERS

Mr. Weidemyre made a motion to direct Planning Commission to make a recommendation to Council regarding Mr. Stout’s rezone request. Mr. Lewis seconded the motion. Five members cast their votes Aye, zero Nay, and the motion passed.

Mr. Metzger addressed the wind generation project and commented how he would like it to proceed at a faster pace. Mayor Bender interjected that Richland County Regional Planning is in the process of completing an in-depth study and they are close to presenting their findings.

CONSIDERATION OF ORDINANCES AND RESOLUTIONS

RESOLUTION NO. 08-20

A RESOLUTION AUTHORIZING THE SERVICE/SAFETY DIRECTOR TO ENTER INTO CONTRACT WITH FRIENDS BUSINESS SOURCE FOR THE PURCHASE OF OFFICE SUPPLIES.

Mr. Zeiter read Resolution No. 08-20 for the first time, by title only.

ORDINANCE NO. 08-45

AN ORDINANCE AMENDING ORDINANCE 08-11 KNOWN AS THE PERMANENT APPROPRIATION ORDINANCE, FOR 2008 BY MAKING ADDITIONAL APPROPRIATIONS TO THE GENERAL FUND.

Mr. Weidemyre read Ordinance No. 08-45 for the first time, by title only.

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ORDINANCE NO. 08-46

AN ORDINANCE AMENDING SECTION 12.1(2) OF ORDINANCE 97-60, AND 04-38, 04-55, 05-08 AND 08-20 TO ALLOCATE THE BALANCE OF INCOME TAX FUNDS AVAILABLE TO BE DISBURSED.

Mr. Blackwell ready Ordinance No. 08-46 for the first time, by title only.

ORDINANCE NO. 08-47

AN ORDINANCE AMENDING ORDINANCE 08-11 KNOWN AS THE PERMANENT APPROPRIATION ORDINANCE, FOR 2008 BY MAKING ADDITIONAL APPROPRIATIONS TO THE GENERAL FUND.

Mr. Lewis read Ordinance No. 08-47 for the first time, by title only.

At 7:30 p.m., there being no further business to come before the meeting, the same was adjourned upon a motion by Mr. Weidemyre and a second by Mr. Blackwell. At roll call, five members voted Aye, zero Nay, and the motion to adjourn passed.

President of Council

Clerk of Council