

Regular

February 4

2010

Ontario City Council met in regular session on February 4, 2010, in the City Offices, with Council President Daniel Zeiter presiding. The meeting opened at 7:05 p.m. with the Pledge of Allegiance.

The following persons were in attendance when roll was called: Council members Paul Williams, Larry Arnold, Charlotte Hellinger, Mark Weidemyre, Barry Lewis and Joseph W. Cinadr; Mr. Zeiter, Mayor Larry Collins, Law Director Allan Sowash, Service-Safety Director Roger Heston and Clerk of Council Cathy VanAuker. Director of Engineering Jerrod Swinehart, Zoning Inspector Dallas Strickler and a number of interested citizens were present in the audience.

Mr. Arnold made a motion to excuse Mr. Blackwell from this evening's meeting. Mr. Weidemyre seconded the motion. At roll call, six members voted Aye, zero Nay, and the motion passed.

The minutes of the regular Council meeting of January 21, 2010 were presented for approval. Mr. Weidemyre made a motion to approve the minutes and Mrs. Hellinger seconded the motion. At roll call, six members voted Aye, zero Nay, one Abstain by Mr. Cinadr, and the motion to approve the minutes passed.

#### **PUBLIC COMMENTARY**

Fred Kohler, 1482 Lex-Springmill Road, came before Council to say: I don't know how this might impact your decision on the rezone but in Fairview Park, in Cleveland, Ohio, they have quite a situation. Years ago they developed Commercial and zoned a lot of the housing, the Residential area, into Commercial so they wouldn't have to go through it. Now, because of the banking regulations that have been put into place in that area, people are trying to sell their houses as residential. They cannot get financing because of the new banking rules. They have to be rezoned, out of Commercial, back to Residential. I'll give you this article. I don't know how it could impact you.

Bob Phillips, 675 Shelby Ontario Road, was next to approach Council: Thank you for letting me speak. I'm talking concerning the Park Avenue potential zoning change to Office. I talked to the Environmental Protection Agency yesterday. They sent a map to make sure we were current and that I wasn't talking about something that didn't exist. They sent me a map and an older letter from when Wal-Mart was doing it. The wetlands are actually on those two properties, it's actually a little on the Wright's property but mostly on Thomas' and the other property. There's a comment on the letter from the EPA, a public hearing on the application is required because the project is expected to impact Category 3 Wetlands. Category 3 Wetlands are the rarest and highest quality wetlands in Ohio providing superior wildlife habitat, floodwater storage and water quality. There is also some Category 2 Wetlands in the area that offer less habitat and floodwater storage than Category 3 Wetlands. Both types would be impacted if we did anything there. My wife is a little younger than me and I have a four year old boy so I can't say that I was watching this video because it excited me but the Michael Jackson movie was on. He was talking about in the Amazon, every second, one football field is destroyed. I thought it was interesting that we have a rare opportunity here to preserve something. How can we expect the rest of the world to look for us to tell them how to do something when we ourselves are willing to destroy something that's rare and important to us? (Mr. Phillips circulated copies of the map.) The wetlands are about three acres. I'll be teaching kindergarten again and hopefully, someday, we can take a tour of that and show them what the world has to offer. Thank you.

Attorney Jeffrey Heck, 1 Marion Avenue, Suite 104, stood before Council to say: I represent the property owners involved in the rezone that is before you. I would like to address the two comments that were made this evening about the rezone. First of all, I'm not familiar with and did not have a chance to review that article ahead of time. I'm not familiar with what Mr. Kohler is talking about in Fairview Park. Here's what I will remind Council as you consider this issue. We're talking about two houses that are involved in the requested rezone; four

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parcels total, two houses. Those individuals are requesting this rezone, the zoning isn't being asked to be changed anywhere else, by anyone else who is not a party to this petition and hasn't requested that this zoning be changed. These individuals, I think, given the circumstances of the situation that I outlined for you a couple of weeks ago certainly wish that rezoning go forward. There's no need to protect them from themselves, in that regard, if that is even an issue. I don't know that it is. I do want to at least mention that. With regard to the wetlands, while I appreciate the comments made by Mr. Phillips, I think that what Mr. Phillips comments point out is that the Ohio EPA recognizes that wetlands of that type and that quality are going to be protected by the Ohio EPA. What I can tell you is, we're not talking about destroying wetlands, we're talking about rezoning this property to Office Service. The rezones of these properties to Office Service will no way change the nature of those wetlands, and they can't be changed. There would have to be major things going through with the Ohio EPA. In fact, if you'll recall, for those of you who were around and involved back in the Wal-Mart days, Wal-Mart was required to buy ten acres of wetlands in another part of the community to preserve and protect because they did impact a small part of the wetlands there. We're not talking about attacking or doing anything to these wetlands, or changing them at all, what we're talking about is simply a change of zoning of the property. A wetlands and its protection are completely separate different issues protected by federal and state law. I just want to make sure we are not getting lost among some of these issues. I agree they are important issues, they don't affect the nature in the request for the rezone. Thank you very much.

#### **COMMITTEE REPORTS**

Mrs. Hellinger reported on the Utilities Committee meeting held prior to Council where they addressed the Home Road Lift Station. After additional information was presented, Council agreed to bring Ordinance 09-22 off the table and a vote taken.

Mr. Weidemyre began his report on the Finance Committee meeting held on February 2, 2010, by thanking Mayor Collins for the many hours he spent on preparing the budget. Due to the loss of General Motors the revenue is down substantially and although many cuts have been made to the budget, more must be made. Mr. Weidemyre announced a Personnel/Finance Committee of the Whole on February 10, 2010, at 4:00 p.m., to continue discussing the budget.

Mr. Cinadr said he was pleased there is an economic development initiative started for Richland County which will include Ontario. We are looking forward to participating in their deliberations and decisions.

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

#### **MAYOR'S REPORT**

Mayor Collins presented his report to Council.

- Today was the last official day of production for General Motors. They will reduce their work force further by mid-February and will possibly have some employees here until December. Kathy Kleg, one of three managers over the U.S., Canada, and Mexico for General Motors will be here February 18, 2010.
- The permanent budget should be before Council at their next meeting.
- Council President Zeiter and Mayor Collins have completed Mayor's Court Training.
- A new upscale authentic Mexican Restaurant will be opening soon at the former Chi-Chi's location on W. 4<sup>th</sup> Street.

#### **SERVICE-SAFETY DIRECTOR'S REPORT**

Mr. Heston began his report by thanking the Safety and Service Departments for their help in preparing the budget. Due to budget restraints they are looking at ways to save the tax payers money. The City is considering doing their own crack sealing on the streets this year. It will

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cost less to rent the equipment and purchase materials than hiring a contractor. Contractors charge by the amount of material they put on the streets so they may not be as conservative. Materials can be purchased directly from the supplier for less than through the contractor. This should result in a savings of \$17,000 on the same amount of sealing but there will probably be more sealing done this year than in the past.

Consideration was given to discontinuing the annual winter storm debris pick-up program which costs the City \$2,500 - \$3,000. The ground debris is used for mulch in the parks and other City properties. Purchasing the mulch would cost more than what would be saved so they will repeat the program in the spring.

The dry weather last week provided an opportunity to do more street patching and save approximately \$20,000 in salt, labor and maintenance.

Due to a small number of recent home burglaries, the Chief of Police has asked that citizens to keep doors locked and not to hesitate to call the Police Department if they see any suspicious person or activity. They would rather check it out than allow crimes to take place. Crime prevention is also the responsibility of the public.

Bid sheets were received from the State of Ohio for the paving of Park Avenue West. These were reviewed with the Engineer and they attempted to see why our costs increased while the overall cost of the project decreased. The base and sub-base of the paving is 100% the responsibility of the City. The savings was realized in the top layer which is the State's responsibility, therefore, the State will recognize the savings while the City's share increased by \$4,888. Parts of the project can be non-performed which will notice some savings. The depth of the paving can be reduced and they can forego joint repairs on the ramp and shoulders of St. Rt. 309.

The Water Department is trying to isolate a small leak in the system but thawing conditions are causing water flow in all of the storm basins right now which make isolation difficult. The water loss average is well below the EPA guidelines.

Resolution No. 10-02 is a cooperative effort between the City and Richland County Central Purchasing. The current contract with Friends Business Source expires February 28, 2010 but notification was not received until January 19<sup>th</sup>; this was the earliest this could be presented to Council. Delaying approval until three readings will surpass the contract expiration date and it is unknown what affect that would have, if any.

## **LAW DIRECTOR'S REPORT**

Mr. Sowash responded to a request from the last meeting pertaining to sexually oriented business.

- The current City ordinance and the recently passed Mansfield ordinance were compared.
- Mansfield requires a setback from other properties of 750', Ontario requires 800'.
- There are some restrictions within the Mansfield ordinance that should be taken under consideration.
- The Ohio Attorney General's Office has two model ordinances both prohibiting criminal conduct in sexually oriented businesses and a model ordinance regulating sexually oriented businesses basically by licensing. Which, if these are adopted, the Attorney General will stand behind. These are available for consideration by the appropriate Council committee.

Mr. Zeiter added that he asked the Clerk of Council to survey other communities for their input and a packet containing that information has been compiled for review.

Mr. Williams scheduled a Safety Committee meeting on February 10, 2010, immediately following the Finance/Personnel meeting.

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**MISCELLANEOUS MATTERS**

Mrs. Hellinger read the Public Hearing announcement in its entirety. Notice is hereby given that a public hearing will be held before the Council of the City of Ontario, Ohio, at a Regular Meeting at 7:00 p.m. on Thursday March 18, 2010, at the Charles K. Hellinger Ontario Municipal Building, 555 North Stumbo Road, Ontario, Ohio, upon a proposal to amend the City Zoning Ordinance as follows:

Repealing Section 1145.28 Site Plan Review of the Codified Ordinances of the City of Ontario, Ohio, and enacting in its place a new Section 1145.28 Site Plan Review.

The City of Ontario Planning Commission has recommended in favor of this change.

All persons interested in these issues are invited to attend and express their views.

At this time, Mr. Weidemyre made a motion to bring Resolution No. 09-22, the Home Road Lift Station, off the table for consideration. Mr. Lewis seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and the motion passed.

Mr. Lewis made a motion for the Mayor to enter into negotiations to consider the purchase of land to be used for public purposes as discussed in executive session. Mr. Weidemyre seconded the motion. Hearing no discussion, five members cast their votes Aye, one Nay by Mr. Williams and the motion passed.

Mr. Weidemyre made a motion to approve Resolution No. 09-22, the Home Road Lift Station. Mrs. Hellinger seconded the motion. Mr. Williams said this is needed and they need to act fast. This should have been in place a long time ago, they are walking a fine line on time and they need to move on this now. Six members cast their votes Aye, zero Nay, and the motion passed.

**CONSIDERATION OF ORDINANCES AND RESOLUTIONS****ORDINANCE NO. 10-02**

(THIRD READING) AN ORDINANCE AMENDING ORDINANCE 09-57 KNOWN AS THE TEMPORARY APPROPRIATION ORDINANCE FOR 2010 BY TRANSFERRING THE SUM OF \$32,000 WITHIN THE GENERAL FUND.

Mr. Weidemyre made a motion to adopt Ordinance No. 10-02. Mr. Williams seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 10-02 was adopted.

**RESOLUTION NO. 10-01**

(SECOND READING) A RESOLUTION AUTHORIZING THE CHIEF OF POLICE RODNEY SMITH TO RELEASE TO THE RICHLAND COUNTY SHERIFF'S OFFICE 17 PORTABLE HANDHELD RADIOS NO LONGER NEEDED BY THIS CITY.

Mr. Williams made a motion to suspend the rules requiring the reading of Resolution No. 10-01 on three separate days. Mr. Cinadr seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Lewis read Resolution No. 10-01 for the second time, by title only.

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Mr. Lewis made a motion to adopt Resolution No. 10-01. Mr. Cinadr seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Resolution No. 10-01 was adopted.

## ORDINANCE NO. 10-03

(SECOND READING) AN ORDINANCE REZONING THREE PARCELS ON THE NORTH SIDE OF PARK AVENUE WEST FROM R-1 LOW DENSITY RESIDENTIAL TO OS OFFICE SERVICE DISTRICT.

Mr. Weidemyre made a motion to suspend the rules requiring the reading of Ordinance No. 10-03 on three separate days. Mr. Cinadr seconded the motion. Three members cast their votes Aye, two Nay by Mr. Weidemyre and Mr. Lewis, one Abstain by Mr. Williams, and the motion to suspend the rules failed. Mr. Cinadr read Ordinance No. 10-03 for the second time, by title only.

## ORDINANCE NO. 10-04

(SECOND READING) AN ORDINANCE DESIGNATING FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF GALION, OHIO, AS A PUBLIC DEPOSITORY OF THE ACTIVE AND INTERIM FUNDS OF THIS CITY FOR THE PERIOD COMMENCING JANUARY, 2010 AND ENDING DECEMBER 31, 2014 AND DECLARING AN EMERGENCY.

Mr. Williams made a motion to suspend the rules requiring the reading of Ordinance No. 10-04 on three separate days. Mr. Weidemyre seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Williams read Ordinance No. 10-04 for the second time, by title only.

Mr. Williams made a motion to adopt Ordinance No. 10-04. Mrs. Hellinger seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 10-04 was adopted.

## ORDINANCE NO. 10-05

(SECOND READING) AN ORDINANCE DESIGNATING HUNTINGTON NATIONAL BANK AS A PUBLIC DEPOSITORY OF THE ACTIVE AND INTERIM FUNDS OF THIS CITY FOR THE PERIOD COMMENCING JANUARY 1, 2010 AND ENDING DECEMBER 31, 2014 AND DECLARING AN EMERGENCY.

Mr. Williams made a motion to suspend the rules requiring the reading of Ordinance No. 10-05 on three separate days. Mr. Lewis seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Arnold read Ordinance No. 10-05 for the second time, by title only.

Mr. Arnold made a motion to adopt Ordinance No. 10-05. Mr. Williams seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 10-05 was adopted.

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## ORDINANCE NO. 10-06

(SECOND READING) AN ORDINANCE DESIGNATING FIRST MERIT BANK AS A PUBLIC DEPOSITORY OF THE ACTIVE AND INTERIM FUNDS OF THIS CITY FOR THE PERIOD COMMENCING JANUARY 1, 2010 AND ENDING DECEMBER 31, 2014 AND DECLARING AN EMERGENCY.

Mr. Williams made a motion to suspend the rules requiring the reading of Ordinance No. 10-06 on three separate days. Mr. Weidemyre seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mrs. Hellinger read Ordinance No. 10-06 for the second time, by title only.

Mrs. Hellinger made a motion to adopt Ordinance No. 10-06. Mr. Cinadr seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 10-06 was adopted.

## ORDINANCE NO. 10-07

(SECOND READING) AN ORDINANCE DESIGNATING RICHLAND BANK DIVISION OF THE PARK NATIONAL BANK AS A PUBLIC DEPOSITORY OF THE ACTIVE AND INTERIM FUNDS OF THIS CITY FOR THE PERIOD COMMENCING JANUARY 1, 2010 AND ENDING DECEMBER 31, 2014 AND DECLARING AN EMERGENCY.

Mr. Cinadr made a motion to suspend the rules requiring the reading of Ordinance No. 10-07 on three separate days. Mr. Weidemyre seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Weidemyre read Ordinance No. 10-07 for the second time, by title only.

Mr. Weidemyre made a motion to adopt Ordinance No. 10-07. Mr. Arnold seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 10-07 was adopted.

## RESOLUTION NO. 10-02

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

Mr. Williams made a motion to suspend the rules requiring the reading of Resolution No. 10-02 on three separate days. Mr. Lewis seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Lewis read Resolution No. 10-02 for the first time, by title only.

Mr. Lewis made a motion to adopt Resolution No. 10-02. Mr. Cinadr seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Resolution No. 10-02 was adopted.

## ORDINANCE NO. 10-09

AN ORDINANCE AGREEING TO COOPERATE WITH THE DIRECTOR OF TRANSPORTATION IN THE 2010 ODOT SIGN REPLACEMENT PROJECT ON SR 30 AND SR 309 WITHIN THE CITY OF ONTARIO AND DECLARING AN EMERGENCY.

Mr. Cinadr made a motion to suspend the rules requiring the reading of Ordinance

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No. 10-09 on three separate days. Mr. Williams seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Cinadr read Ordinance No. 10-09 for the first time, by title only.

Mr. Cinadr made a motion to adopt Ordinance No. 10-09. Mr. Williams seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 10-09 was adopted.

At 7:40 p.m., there being no further business to come before the meeting, the same was adjourned upon a motion by Mr. Williams and a second by Mr. Cinadr. At roll call, six members voted Aye, zero Nay, and the motion to adjourn passed.

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President of Council

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Clerk of Council