

Regular

May 17

2012

Ontario City Council met in regular session on May 17, 2012, in the City Offices, with Council President Daniel Zeiter presiding. The meeting opened at 7:02 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, Jim Hairston, Mark Weidemyre, Michele Webb, Pamela Drake, Mr. Zeiter, Mayor Larry Collins, Law Director Allan Sowash, Treasurer Linda Stoodt, Service-Safety Director Roger Heston, and Clerk of Council Cathy VanAuker. A number of interested employees and citizens were in the audience.

The minutes of the regular Council meeting of May 3, 2012 were presented for approval. Mr. Hairston made a motion to approve the minutes with a second by Ms. Drake. At roll call, seven members voted Aye, zero Nay, and the motion to approve the minutes passed.

### **PUBLIC COMMENTARY**

Craig Hunt, 3680 Park Avenue West, came before Council and asked if there was any update on the Rock Road bridge. Mr. Arnold said he would be giving a report on the bridge tonight.

### **COMMITTEE REPORTS**

Mr. Williams distributed a diagram showing an electrical layout at Marshall Park for the new pavilion near the ballfields and didn't feel it was necessary for a \$5,000 electric drop that would only be used once a year during the 4<sup>th</sup> of July festival.

- Mr. Williams extended appreciation to the Street Department employees for the amount of work needed to repair the drainage tiles in the lot next to him. Everyone worked together to get the work completed.

Mr. Arnold reported on the current status of the Rock Road bridge which is owned by Norfolk Southern Railroad. A meeting was held earlier today with their representative, Solomon Jackson, and it was made clear that the City of Ontario wants the road opened. Norfolk Southern is planning on tearing down the bridge by utilizing one of three contractors from their bids. Tearing down the bridge is a fairly quick process but when Mr. Arnold said they needed to restore the city by making the road double lane where it was a single lane under the bridge he was informed that widening the road was never mentioned. Mr. Jackson will contact the insurance company with the city's request. A follow-up session with Mr. Jackson will take place on June 14<sup>th</sup> when they hope to learn what the insurance company is willing to do.

- Due to safety concerns the tearing down of the bridge will not allow the street to reopen without restoration of widening the roadway.
- The insurance company did not require the city to obtain the third party inspection from URS, therefore, they are not compensating the \$12,000 expense.
- The city will receive the stones from the bridge but there has not been any discussion on what to do with them.
- Mr. Hairston said Mr. Jackson felt widening the road was a reasonable request.
- Mr. Williams said if the city must absorb the engineering costs for the inspection it shows the citizens they tried to save the bridge.

Mr. Arnold reported on this evening's Personnel Committee meeting where they discussed two items.

- The resignation of the Engineer. Rather than hiring a full time engineer Mr. Heston is contacting an individual, who does part time engineering for another city, to see if he is interested in contracting with Ontario.
- Zoning Inspector Dallas Strickler is retiring at the end of May. Mayor Collins has received some recommendations and was asked to post the job opening on Monster or Career Builder before moving forward with the selection process.

Regular

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2012

In response to Mr. Weidemyre's question on the paving schedule, Mr. Arnold said because paving Sigrud Drive was placed on hold due to the McDonald's construction schedule they will proceed with Carmen.

Mr. Zeiter expressed his disappointment with the update on the bridge. It's been nine months since the bridge was hit and there haven't been any discussions on what would need to be done if the bridge was torn down, such as widening the road or who mows the embankments that will be created. The Engineer's emails to Norfolk Southern did not address what would happen if the bridge was torn down. Council was not included in any of the discussions or anticipated expenses. Mayor Collins said the inspection was done to ensure the public everything possible was done and determining the outcome of the bridge was done by an authority.

When Mr. Zeiter asked the Service/Safety Director about his email requesting a Utilities Committee meeting to discuss the Ohio EPA's Findings and Orders, Mr. Sowash said the Findings and Orders were discussed at the special Council meeting and they thought they had an agreement with the EPA. When the agreement came back, Mr. Winfrey reviewed the language and made sure nothing was added; timing was wrong for a grant. During that special meeting, Council approved the changes and authorized the Mayor to sign the Findings and Orders. Mr. Sowash requested following through with Council's original directions and have the Mayor sign the Findings and Orders.

- Mr. Weidemyre asked if someone could negotiate with the EPA and wait until March when a grant for 50% of the project, one million dollars, would be available. Mr. Arnold pointed out that hefty fines could be rendered for not signing.
- When Mr. Weidemyre said his understanding was the date was going to be extended for a year, Mr. Sowash said that date was not going to be changed based on the agreement and if they don't sign the Orders there will be fines. Mr. Weidemyre thought they should talk to the EPA about an extension.
- Mr. Zeiter said the Findings and Orders state the design of the EQ basin and the right-of-way acquisition (if necessary) are to be completed by the end of the year. It does not mandate that construction needs to begin by the end of the year. If they chose to purchase the property then that amount cannot be added to the total project.
- Mr. Heston said there wasn't enough time to apply for a grant for this year but grant opportunities for next year are available.
- The consensus was for the Mayor to sign the Findings and Orders.

Mr. Weidemyre reported the company wanting to locate at the Beer Road Industrial Park is still very interested but there has not been an official decision.

Mrs. Hellinger, Mr. Hairston, Mrs. Webb and Ms. Drake had no report.

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

Mayor Collins had no report.

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

Mr. Heston had no report.

#### **LAW DIRECTOR'S REPORT**

Mr. Sowash provided a follow-up on the abandoned van sitting at the Flowerama lot. Tomorrow is the deadline for the latest letter that was sent. At this time Council may authorize the Police Department to remove the van.

Regular

May 17

2012

Mr. Weidemyre made a motion to authorize the City Police Department to remove the disabled van from the parking lot of Flowerama as of Monday and take it to an impound lot, and then look at possible salvage. Mr. Sowash will check on putting the van at the Service Building to avoid fees at the impound lot that can't be recovered. Mr. Hairston seconded the motion, and the motion passed unanimously.

#### **MISCELLANEOUS MATTERS**

Mr. Zeiter read the following Notice of Public Hearing:

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, July 5, 2012, 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:

AMENDING SECTION 1146.02(b) DEFINITIONS AND SECTION 1146.03(d)(5) SIGNS BY NUMBER, SIZE AND LOCATION OF THE CODIFIED ORDINANCES OF THIS CITY TO REVISE THE REGULATIONS OF THE DISPLAY OF BANNERS BY BUSINESS AND INDUSTRIES.

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.

Mr. Arnold moved that City Council authorize Attorney Latchney to settle the Thomas v. City of Ontario lawsuit by granting three variances to the Thomases, subject to certain conditions. The variances would be (1) that Rebecca Thomas would be permitted to have a sign, which complies with the City's Zoning Code, in front of the Thomas residence advertising her legal practice; (2) that notwithstanding the limitations placed on home occupations, Rebecca Thomas would be permitted to have an employee or employees work in the residence; and (3) that the Thomases would not be required to pave their driveway.

In consideration for the foregoing, the Thomases agree: (A) that the variances are entirely personal to them, are non-transferable, and do not 'run with the land'; (B) that the zoning of their property remains residential for as long as the variances are in force and effect; (C) that they execute a Release and Settlement Agreement, which releasing the City of Ontario and its officials from any and all liability; and (D) that there is no indemnity payment (money) paid to the Thomases as part of a settlement.

Mr. Weidemyre seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and the motion passed.

At 7:39 p.m., Mr. Zeiter opened the public hearing for amending the City Zoning Ordinance by repealing Section 1139.01, corridor development overlay district of the Codified Ordinances of the City of Ontario.

At 7:40 p.m., hearing no one who wished to speak, the public hearing portion of the meeting was closed.

Mr. Arnold made a motion authorizing Chief Smith to accept a grant for Drug Use Prevention from the Ohio Attorney General's office. Mr. Williams seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and the motion passed.

#### **CONSIDERATION OF ORDINANCES AND RESOLUTIONS**

ORDINANCE NO. 12-12

Mr. Arnold made a motion to amend the title of Ordinance No. 12-12, to read as follows:

Regular

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2012

AN ORDINANCE SEPARATING THE DUTIES OF THE CLERK OF THE WATERWORKS FROM THE OFFICE OF THE CITY AUDITOR, PLACING THAT POSITION UNDER THE SUPERVISION AND DIRECTION OF THE MAYOR, ASSIGNING THE INCOME TAX ADMINISTRATOR TO WORK UNDER THE SUPERVISION OF THE MAYOR AND PERFORM SUCH OTHER SECRETARIAL DUTIES AS ASSIGNED BY THE MAYOR, REPEALING ORDINANCE 10-39, AND DECLARING AN EMERGENCY.

Mr. Williams seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion passed.

Mr. Arnold made a motion to amend Section 1 of Ordinance No. 12-12 to read as follows:

SECTION 1. THAT the duties of the Clerk of the Waterworks are hereby separated from the office of the City Auditor and the Clerk of the Waterworks shall henceforth work under the supervision and direction of the Mayor and to best serve the citizens of the City this office shall remain located in the Hellinger Municipal Building.

Mrs. Hellinger seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion passed.

Mr. Arnold made a motion to amend Section 2 of Ordinance No. 12-12 to read as follows:

SECTION 2. THAT the position of Income Tax Administrator is hereby assigned to work under the supervision of the Mayor. They shall also assist the Clerk of the Mayor's Court when available and perform such other secretarial duties as the Mayor shall determine.

Mr. Williams seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion passed.

Mr. Arnold read Ordinance No. 12-12, for the third time, as amended, by title only.

Mr. Arnold made a motion to adopt Ordinance No. 12-12, as amended. Mr. Williams seconded the motion. Hearing no discussion, seven members cast their votes, Aye, zero Nay, and the motion passed.

ORDINANCE NO. 12-14

(SECOND READING) AN ORDINANCE REPEALING ORDINANCE NO. 04-46, ELIMINATING THE POSITION OF CITY ENGINEER, AND DECLARING AN EMERGENCY.

Mrs. Hellinger made a motion to table Ordinance No. 12-14. Mr. Hairston seconded the motion. Hearing no discussion, seven members voted Aye, zero Nay, and the motion passed.

At 7:43 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. Arnold. At roll call, seven members voted Aye, zero Nay, and the motion to adjourn passed.

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Daniel J. Zeiter, President of Council

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Cathy VanAuker, Clerk of Council