

## Regular

September 20

2012

Ontario City Council met in regular session on September 20, 2012, 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, Jim Hairston, Mark Weidemyre, Michele Webb, Pamela Drake, Mayor Larry Collins, Law Director Allan Sowash, Auditor Jane Hammond, Service-Safety Director Roger Heston, and Clerk of Council Cathy VanAuker. A number of interested employees and citizens were in the audience.

Mr. Williams made a motion to excuse Charlotte Hellinger 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 September 6, 2012 were presented for approval. Ms. Drake made a motion to approve the minutes with a second by Mr. Hairston. At roll call, six members voted Aye, zero Nay, and the motion passed.

#### **PUBLIC COMMENTARY**

Craig Hunt, 3680 Park Avenue West, came forward to express his concern on what he feels is a lighting nuisance on his property and distributed a handout showing pictures to help explain. Mr. Hunt asked the owner of the neighboring car lot to alter the fluorescent light that shines onto his property. The police and the Zoning Inspector have been to his property; a shade was installed over the light which worked well for a week but then was altered resulting in the lighting problem to return.

- Mr. Hunt referred to Codified Ordinance 1145.09 (f) Light Pollution Standards. Artificially produced light that strays beyond property lines shall be considered a public nuisance when intensity levels exceed the maximum illumination levels at or beyond five (5) feet into the adjoining property as listed in chart below.
- The meter read zero 5' from his property line at grade level which was due to the shadow of the fence. When the meter was raised straight up to 6' there was a zero reading, this was also done at 10', 15', and 20'. 5' from the property line he asked them to put the light at 6' high so there would not be a shadow, the reading was between .5 and .9 which exceeds the allowable limit.
- Mr. Hunt would like to see this section of the codified ordinances returned to Planning Commission for review to include the shadow of a fence when readings are taken.
- Mr. Hairston said he was at the property and concurred there was an issue with the light coming over the fence and recommended a review.

Mr. Hairston made a motion requesting Planning Commission review Section 1145.09 of the codified ordinances. Mr. Williams seconded the motion. Mr. Sowash will check how changing the code would affect other businesses. Mr. Hunt referred to 1145.09(a) All lighting fixtures for parking areas or the external illumination of buildings or ground shall: (1) Be directed away from and shielded from adjacent residential properties or residential zoning districts; (b) All lighting fixtures designed or placed so as to illuminate any portion of a lot shall meet the following requirements: (1) The light source shall be completely concealed within an opaque housing and shall not be visible from any street. Mr. Hunt said he is residential in a business district. Six members cast their votes Aye, zero Nay, and the motion passed.

Next to come before Council was Ontario Lion's Club President Millie Keith and 1<sup>st</sup> Vice President Howard Harriman to thank the city for the use of the Senior Center. A list of events held at the Senior Center was distributed. Mr. Harriman said the Lion's Club takes care of the small maintenance items at the Senior Center, the outside lighting, and also upgraded items inside the building but his concern was the roof and doors. Pictures of the metal channel-drained roof were circulated among Council members. The pictures showed that not all of the open cracks were sealed with resin and a lot of tar and paint was used in the past to seal the cracks which doesn't hold.

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- Mr. Harriman researched a roofing repair that would allow insulation to be placed directly on top of the metal roof. A sample of the insulation was provided along with TPO, a combination of plastic and rubber, that can be placed on top of the insulation. The Hanley Road Wal-Mart has this material on their roof.
- The boot around the restroom pipe isn't good and once the snow comes there will be problems. The boot around the heat system is rusted.
- The gutters are steel and badly rusted.
- The front door was temporarily repaired with a piano hinge. The door causes water to get into the lobby area causing the drywall to fall off the walls; moisture comes in from the top.
- Mr. Harriman offered to help with this project.
- The Senior Center has activities scheduled almost every day and is used by 400 – 500 people each week.
- The Senior Center is set up to be used as an emergency shelter and is wired for a generator.
- Mr. Williams suggested renting the Center on weekends to raise money to go toward building maintenance.
- The estimate to repair the roof with this insulation and TPO is \$21,000. This does not include gutter, downspouts, etc. The warranty is 20 years.
- Mr. Heston said he had three people look at the building and requested \$25,000 in next year's budget to replace the roof. Mansfield Roofing donated their work to make temporary repairs until a decision is made on how to repair the roof because there isn't money to fix it this year. Replacing the door will be expensive and require major construction so in an effort to save money city employees put on the piano hinge. Ms. Drake asked if the doors are break-away to comply with fire code for a public building which are generally two doors. Mr. Heston said this is a single door with glass sections on each side and was probably to code when it was built. Mr. Harriman said the door has a system installed that meets code as well as the handicap door opener. Mr. Heston said the door is fixed and is safe.
- Mr. Heston said a previous estimate that he received to repair the roof was \$25,000.
- There were concerns as to what affects the upcoming snow and ice will have on the roof.
- Mr. Heston said if they are going to transfer money into the Building Funds he would like an additional \$7,000 that was used for the lighting project so he can purchase sidewalk salt. Mr. Zeiter preferred to wait so they could review the account because he thought additional money was put in the fund for the lighting project.
- Ms. Drake advised if they have two or three layers of roofing and get a leak it will be very difficult to locate the point of origin.

Mr. Weidemyre made a motion for the Law Director to prepare legislation transferring \$25,000 into the Building Maintenance Fund. Mr. Hairston seconded the motion, and the motion passed unanimously.

Mr. Zeiter thanked the members of the Lion's Club for attending, what they do for the community, and taking care of the building.

## COMMITTEE REPORTS

Mr. Williams scheduled a Parks Committee meeting for September 25, 2012 at 3:00 p.m.

Mr. Arnold reported on the Rock Road bridge. Because it would not be safe to tear the bridge down and leave a single lane road, an estimate to widen the road to a double lane was \$30,000. The Law Director received a memo from the insurance provider, dated September 18<sup>th</sup>, stating their final offer of \$18,000, they would tear down the bridge and the rocks would be saved.

- Mayor Collins said the road work could be done in-house for \$25,000.
- Mr. Hairston felt it was worth the \$7,000 to get the road opened because it has been closed for over a year.

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- The \$16,000 spent on the engineering study was not refundable because the city was not asked to obtain the report.
- Mayor Collins told Council that railroad representative Solomon Jackson has been very cooperative and will not sign a release until the city is happy, but if it goes to litigation it will take a very long time. The railroad is not willing to put any money into the project.
- Asphalt companies close for the season November 15<sup>th</sup>.
- Ms. Hammond said there is \$160,000 budgeted in Capital Improvements that probably will be left over at the end of the year because projects haven't been started.
- A company that has worked with the railroad on many projects countrywide was chosen to tear down the bridge and the city will retain the stone.
- Mr. Sowash said once the agreement is signed it waives all subrogation.

Mr. Hairston made a motion to accept the agreement from the insurance company. Ms. Drake seconded the motion. Four members voted Aye, two Nay by Mr. Weidemyre and Mrs. Webb, and the motion passed.

Mr. Hairston made a motion to authorize the Mayor and the Service-Safety Director to sign the agreement pending review and approval by the Law Director. Mr. Williams seconded the motion. Five members cast their votes Aye, one Nay by Mr. Weidemyre, and the motion passed.

Mr. Hairston said soccer bleachers could be purchased between \$600 and \$800 per set. He will contact OYS to decide on a good location.

Mr. Weidemyre scheduled a Utilities Committee meeting at 2:00 p.m. on September 25, 2012 and a Finance Committee meeting on October 1, 2012 at 3:00 p.m.

Mr. Weidemyre and the Mayor met with the developer of the former GM plant and they still plan to begin work later this year on reconfiguring the building.

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 said at the last meeting he was asked to research a purchase order which has been taken care of. The other request was to research the public records request which resulted in the E.S. Consulting bill. A public records request must be filled. By statute, we have to provide everything that is pertinent and relevant in the medium that we can best get it. This looks like the best way was electronically, which was done. Mr. Sowash recalled that it was going to cost next to nothing to get it which was verified during a Council meeting. His understanding was once the bill was generated it went directly to the attorney, not the city. The Auditor did not see the bill until it was overdue and it was not initiated by a purchase order. Mr. Sowash said the Auditor was concerned about the overdue for the audit, but Mr. Sowash didn't see anything inappropriate because she didn't receive the bill and there was no authorized purchase order. There was no impropriety as to how the public records request was filled, on what we did, and as far as the bill goes it is up in the air. You have to make the decision if you are going to pay it or let it go and see what happens. Basically, it was generated without a purchase order so they weren't authorized to generate the bill and we weren't aware of it until it came back.

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- Mr. Arnold asked if the city pays this bill would they be setting precedence for any private public records request when we don't have the ability to get it. Do we go to this same organization or another one and they charge \$5,000 then we would have to pay that as well. Mr. Sowash said it should be put in writing up front. It was verified this would cost the city nothing or next to nothing and the bill did not come directly to us, so we did not know that. There was no wrong doing on how the public records request was filled and we have to do it in the manner that is most available to us. If we didn't fill it then it could cost us a lot more.
- Mrs. Webb asked at what point did we know it was going to go from being nothing or next to nothing to \$1,200? Ms. Hammond said the first notification was the letter from Attorney Heck's office stating they weren't going to pay the bill. The request was made in September and we didn't know until the letter arrived in February. The company doing the work never notified the city because they thought the attorney was paying the bill.
- Ms. Drake said when the representative from the company was here he said he didn't think it was going to be that much and that Attorney Heck was paying the bill.
- Mr. Hairston said Attorney Heck's office asked for the records and we chose to use E.S. Consulting who did not talk to Heck's office.
- Mr. Sowash said the Auditor doesn't have any worries about the bill being past due because she never received a bill.
- There wasn't a purchase order so the payment isn't late.
- When Mrs. Webb asked if there has been any negotiation with the IT firm because we thought the attorney was going to pay and the city wasn't told it was going to be \$1,200, Ms. Hammond said Mr. Fox, from E.S. Consulting, said he wanted to know before anyone had to personally pay the bill which is procedure for purchases without a purchase order. The bill was already reduced from \$1,400 to \$1,200.
- Mr. Zeiter suggested if the city continues to use E.S. Consulting they need to understand the records retention policy and should attend a State House Bill 9 Seminar.

#### **MISCELLANEOUS MATTERS**

Ms. Hammond reviewed items from the last meeting.

- There is \$39,000 left in the account for paving after what was encumbered for striping.
- The land lease contract was signed for four more years at \$42 per acre.
- There is \$36,529 remaining in the Engineer's line item to pay the part-time engineer for the remainder of the year.
  - Mr. Sowash said it was acceptable to use the full time ordinance that is currently in place to hire the part-time engineer without benefits.
- 28 line items are at zero but the only concern is the Recreation Department because there are still upcoming events.
- \$100,000 was originally placed in Contingencies for Capital Improvement to be used on the culvert. Since the complete culvert project exceeds \$25,000 it must be bid.
- Although there is \$50,000 in water and sewer upgrades that hasn't been used, Mr. Heston said he would need \$65,500 once legislation is passed tonight for the OPWC loan.
- The Payroll Clerk position takes 20 hours a week to complete the work. Paying \$300 per month to outsource this service is a substantial savings from paying a full time employee with benefits. This payroll service saves the city \$42,000 a year, but if Council wants the two positions back together she will have to make the Accounts Payable Clerk full time with benefits. The ADP contract expires in two years but penalties to cancel early are very high; the previous Auditor signed the contract.

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

RESOLUTION NO. 12-11 - A RESOLUTION AMENDING ORDINANCE NO. 12-07 A RESOLUTION AUTHORIZING SERVICE-SAFETY DIRECTOR ROGER HESTON TO SIGN A PROJECT LOAN AGREEMENT WITH THE OHIO PUBLIC WORKS COMMISSION, AND DECLARING AN EMERGENCY.

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Mr. Weidemyre made a motion to amend Appendix B by striking the name Jerrod Swinehart and replacing with City Engineer. Mr. Hairston seconded the motion. Six members cast their votes Aye, zero Nay, and the motion passed.

Mr. Weidemyre made a motion to suspend the rules requiring the reading of Resolution No. 12-11 on three separate days. Mrs. Webb seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Hairston read Resolution No. 12-11 for the first time, by title only.

Mr. Hairston made a motion to adopt Resolution No. 12-11. Mrs. Webb seconded the motion. Hearing no discussion, six members cast their votes Aye, zero Nay, and Resolution No. 12-11 was adopted.

**RESOLUTION NO. 12-12 - A RESOLUTION AWARDED A CONTRACT TO POGGEMEYER DESIGN GROUP TO PROVIDE PROFESSIONAL DESIGN SERVICES TO THIS CITY FOR THE PREPARATION OF THE PERMIT TO INSTALL AND DETAILED PLANS FOR THE EQ BASIN FOR THE ROCK ROAD SANITARY SEWER OVERFLOW IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY.**

Mr. Williams made a motion to table Resolution No. 12-12. Mr. Arnold seconded the motion. Six members cast their votes Aye, zero Nay, and Resolution No. 12-12 was tabled.

**ORDINANCE NO. 12-26 - AN ORDINANCE ADOPTING REVISED JOB DESCRIPTIONS FOR THE POSITIONS OF STREETS FOREMAN AND PARKS FOREMAN, AND DECLARING AN EMERGENCY.**

Mr. Weidemyre made a motion to suspend the rules requiring the reading of Ordinance No. 12-26 on three separate days. Mr. Arnold seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mrs. Webb read Ordinance No. 12-26 for the first time, by title only.

Mr. Webb made a motion to adopt Ordinance No. 12-26. Mr. Weidemyre seconded the motion. Hearing no discussion, five members cast their votes Aye, one Nay by Mr. Williams, and Ordinance No. 12-26 was adopted.

**ORDINANCE NO. 12-27 - AN ORDINANCE CREATING THE POSITION OF LIFT STATION PROJECT MANAGER/SEWER FOREMAN, APPROVING A JOB DESCRIPTION FOR THIS POSITION, AND DECLARING AN EMERGENCY.**

Mr. Weidemyre made a motion to suspend the rules requiring the reading of Ordinance No. 12-27 on three separate days. Mr. Drake seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Ms. Drake read Ordinance No. 12-27 for the first time, by title only.

Ms. Drake made a motion to adopt Ordinance No. 12-27. Mr. Arnold seconded the motion.

- Mr. Hairston asked for clarification. He agreed with what they are doing, and that Council can create the structure that they feel is the best way for the city to run but to put into legislation to put people in positions isn't right.
- Mr. Arnold responded there is no direction of who Administration places into these positions so they are not crossing boundaries. The Personnel Committee deferred to the Law Director's office for direction.
- Mr. Sowash said Council can create positions, Council can take away positions, they can fund and defund but they can't make placements.
- Ms. Drake said when we look at what people have come to them and said what they need, this is a part of this process. There needs to be good accountability for the people and not go

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in a direction without preparation or there will be failure. We are not currently structured for the growth the city will see in the upcoming months. The EQ basin has dropped off the table several times. As an organization and as a Council we need this structure and we have all discussed this needs done. We need a firm, solid structure to build the foundation for this community to move this forward and get away from the personal issues because this has nothing to do with that. If we do not structure for the growth and cross train where do we turn for the help that we need? Mr. Heston has said he needs help, we are trying to do what we need to do to get you the help, we want good help and a good structure.

- Mayor Collins said he has reviewed this situation and does not believe the structure put in place is going to help and that is the reason he did not come back and say this is what we need to do. In the letter he received June 21<sup>st</sup>, it was clearly stated there was one individual who employees have complained about to Council, it was clearly stated in there this is an Administrative decision. I go on record as opposing both of these ordinances and I will veto both of them tonight. Mr. Hairston said he asked his question because he doesn't want Council to ever overstep their bounds by legislating something because they don't like the answer and they have reassured him this is not the issue.

Six members cast their votes Aye, zero Nay, and Ordinance No. 12-27 was adopted.

Mr. Sowash read the following letter of resignation:

As I sit here tonight participating in this Council meeting I cannot help but think back to January 1974 to the very first Ontario Council meeting to which I was privileged to have participated. I was a newly elected young Council member and I remember how honored I felt having been elected by the citizens of Ontario to serve as their representative. I was further honored to have been allowed to continue that service to Ontario for the next 18 years. Prior to having been elected to Council, I had served for 5 years as a volunteer with the Ontario Police Department. Over the course of the many past years I have had the opportunity to continue public service in a variety of positions with several different governmental entities. Now I have returned to Ontario and once again have been honored by the citizens of Ontario to serve our wonderful community in yet another position. My goal has always been to serve the people and contribute as best I can in helping the governmental entity which I serve. Several weeks ago I was afforded the opportunity to help negotiate and draft the development agreement which was the last remaining element required to complete the sale of the former GM Stamping Plant. I was honored and humbled to have been able to offer this contribution to my home city, Ontario. I am proud and honored to have been able to contribute to Ontario and I view this agreement as the highlight of the last three years of my service. Many hours of thought and contemplation have followed and I have made an important decision. After all these years of service, I have decided it is now time to step aside and retire from public service. I will always be thankful and appreciative of the citizens of Ontario who have honored me throughout the years with their trust and votes. All good things must come to an end, however, so it is my intent that my last day as Law Director will be October 31, 2012 and I have no plans to return to elected office again. Thank you for your consideration and understanding.

Council members expressed their appreciation for all of Mr. Sowash's hard work, the professionalism shown from the Law Director's office, and were saddened to see him leave.

At 9:02 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. Weidemyre. At roll call, six 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