

Regular

October 18

2012

Ontario City Council met in regular session on October 18, 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, Charlotte Hellinger, Jim Hairston, Mark Weidemyre, Michele Webb, Pamela Drake, Mayor Larry Collins, Law Director Allan Sowash, Auditor Jane Hammond, Service-Safety Director Roger Heston, Chief Rodney Smith, 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 October 4, 2012 were presented for approval. Mr. Weidemyre made a motion to approve the minutes with a second by Mrs. Hellinger. At roll call, seven members voted Aye, zero Nay, and the motion passed.

PUBLIC COMMENTARY

Mark Arnold, 182 Lexington-Ontario Road, came before Council to say he was a former 8-year Ontario Village Councilman, parent of two Ontario school graduates, a loyal school supporter and a 17 year supporter of the Ontario summer, middle school and high school swim teams. Mr. Arnold represents the 'Vote No Ontario Pool' Committee and sighted reasons for opposing the pool.

- Due to the loss of the GM plant, the 2010 increase in income tax on Ontario residents, the severe drop in property values in Ontario and Richland County, this is not the time to increase taxes on Ontario residents and business owners by proposing the Aquatic Center.
- This is a 25 year project.
- If this was a financially viable idea then private investors would fund it and build it. No private investors are coming forward, therefore, the project must not be deemed economically viable.
- The proposal is to have a premium Richland County facility, paid for and maintained exclusively by the Ontario property owners, which is an unfair burden.
- The City has the authority to (1) donate the park land needed for the pool to private investors and let them fund and build it, (2) donate the land to Richland County and let county residents vote on funding the project, (3) move the proposed project outside the city limits and place it on the ballot for county property owners to fund, (4) Move the project to school property across the street and let the Ontario School district propose the project/tax increase, or (5) work with the Ontario Schools to open the current pool to the community 12 months a year and to staff it. The map in the proposal encompasses all of the Ontario School district – so why not increase it to the tax payers that will carry the burden.
- Existing 12-month facilities in Richland County include the Ontario School pool, Malabar School, Shelby YMCA, Galion YMCA, Mansfield YMCA, and the Friendly House. A \$3.1 million outdoor facility is not justified – it will negatively impact other municipalities by taking away some of their potential visitors.
- In the future there will need to be a maintenance levy.
- In 2007 the ¼% park tax lost 54% to 46%.
- The 'Make it Ontario Committee' states improving health and well-being for people of all ages. A consideration should be to reestablish funding for the Ontario Schools Substance Abuse Coordinator to protect the children.
- The project is to mirror a Marion aquatic center. Marion has a population of 36,689 and their project cost \$3.5 million. Ontario has a population of 6,175 with a projected \$3.1 million project.
- Ontario Administration said, "this will not cost the city a thing".
- A Make it Ontario committee member said the project is large because pools don't sell and would prefer the glass block is knocked down at the high school pool, revamp the pool and create a community pool.
- The splash park and additional buildings are fluff at an added cost just to get a competitive outdoor swimming pool.

Regular

October 18

2012

- Mr. Arnold felt Council members should not just float proposals before the residents but also let residents know if they will be voting in favor of the project.

Next to come before Council was Craig Hunt, 3680 Park Avenue West, suggested instead of adding another concession stand to modify the soccer pavilion so it could also be used as a concession stand since it won't be used more than a few times a year. When Mr. Hunt asked for an update on the Rock Road bridge, Mayor Collins said he would provide that information in his report.

COMMITTEE REPORTS

Mr. Arnold reported on the Personnel Committee meeting where they made amendments to Ordinances No. 12-30 and 12-31. Confirmation was received that insurance rates would not increase next year but they are still looking for ways to reduce the premium.

Mr. Arnold made a motion authorizing the Police Chief to renew the memorandum agreement with the U.S. Marshall service, for 2013. Mr. Williams seconded the motion. At roll call, seven members voted Aye, zero Nay, and the motion passed.

Mr. Hairston suggested waiting until the spring season to purchase bleachers for the soccer fields because OYS will be redoing the fields for the growing program. Mr. Hairston clarified that OYS requested increasing the size of the concession stand if additional funding was available.

- Renovation began today at the former Hawkins building for the Ohio Area on Aging. Projected move in date is April 1, 2013.

Mr. Weidemyre reported on the following:

- The Finance Committee meeting where they reviewed the 2013 temporary appropriations. A motion was made for the Auditor to review and prepare legislation for the next Council meeting.
- Plans continue on the former GM plant. The company will be in town next week to work on more of the design.
- The information discussed about the bandshell will be shared with Pioneer Joint Vocational School.

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

MAYOR'S REPORT

Mayor Collins reported on the Rock Road bridge.

- After a phone conference last Friday, railroad representative Solomon Jackson said it was in the hands of the railroad's attorneys. A revised copy of the contract was sent to the railroad but Mayor Collins has not seen the contract. Mayor Collins expressed the urgency of getting this resolved and spoke to the railroad and insurance company several times.
- The asphalt company and the construction company are ready to begin work as well as the company hired to tear down the bridge.
- The deadline to complete the project this year is approaching.
- Three suggestions were given on what to do with the stones from the bridge: (1) leave them at the bridge and use them along the bank, (2) create a memorial at Marshall Park, or (3) utilize the brick at another location in the park.

Mr. Arnold recommended forming a small committee to make a list of ideas on what to do with the bricks. Council members agreed to store the bricks at the Service Building through the winter.

Trick or Treat is October 25th from 5:00 – 7:00 p.m.

Regular

October 18

2012

Mayor Collins read the following statement:

At the last Council meeting on October 4, 2012, the issue of paying ES Consulting for work we asked them to do on a record's request did not receive action to pay the bill.

ES Consulting has faithfully worked for the City of Ontario since the year 2000. They have given us a discounted rate, much lower than others they work for. The president of the company is a resident of Ontario. He has reduced the original bill of \$1,400 to \$1,200 and now to \$1,000, at our request.

The Auditor, Council President, Councilman Williams, the Service Safety Director and I received an e-mail from the president of the company on October 5th relating his disappointment to learn of Council's non decision to pay the bill.

Regardless of how all of this transpired, we all know that we are required to provide records requests when they are given to us. I am aware that not everything was done correctly, since the bill was originally sent to the Attorney who requested it.

As to the bill, I believe it is a bill we owe and should pay. As the president of the company said, he is a small business and will have to take the loss for this. He still has to pay his employees. As Mayor of the City of Ontario I go on record respectfully asking Council to authorize the payment of this bill, just as we expect those who owe us to pay their bills.

Mayor Collins read the email sent by Dennis Fox, President of ES Consulting to Auditor Jane Hammond:

Jane,

This is very disappointing to hear as we have been very generous in our efforts to help the City of Ontario with all IT related endeavors. I have even offered to further discount this invoice to help get it resolved. You and many at the City of Ontario are very aware of the amount of time that has been discounted or not even billed to the City in the past. Also, as I have stated many times, we have given you a price discount below all of our other clients who require much less from us in regards to proof of billing that ultimately equates to more time for us. As a business owner and a citizen of The City of Ontario I find it unfortunate that the entire Governing body of the City does not recognize when someone is trying everything they can to help them. Regarding your warning, fraudulent activity is not the way we do or have ever done business and I am offended that it would be reiterated to me on multiple occasions. This should be clearly evident to everyone by our willingness to do everything we can to appease all of the City's policies and leaving extra time unbilled on purchase orders. Unfortunately it is very difficult for a small business like ES Consulting to continually be challenged on billing and left with unpaid or further discounted invoices. I regret to inform you that effective January 1, 2013 our billing rate to the City of Ontario will be increased to our business partner standard of \$90/hour in an effort to manage our relationship costs more effectively. This rate is still extremely competitive and I can promise you that you will not find the same level of expertise and compassion from another company anywhere. Thank you and everyone involved for spending the time to review the billing and I hope that we can continue to do business in a professional manner.

Mr. Hairston said he founded ES Consulting, brought in the president, and is no longer involved in any way, but he will exclude himself from any discussion.

SERVICE SAFETY DIRECTOR'S REPORT

Mr. Weidemyre said it was his understanding that Mr. Heston held a meeting with Service Department employees and instructed them not to talk to Council. Mr. Heston said that was not true, he instructed them that if they had an issue concerning city business they should talk to Administration before going to Council. Mr. Weidemyre said that is not the employee's

Regular

October 18

2012

understanding and he should clarify that with them. Mr. Heston said he would supply a copy of the recording taken at the meeting. Mr. Zeiter said he would like a copy of the recording because he does not want to get a city employee in trouble if they talk to him but he does not want to be ignored if he sees them out and they look the other way because they've been told they would be disciplined if they talk to Council.

LAW DIRECTOR'S REPORT

Mr. Sowash had no report.

Council members expressed their gratitude and thanked Mr. Sowash for his service to the city.

MISCELLANEOUS MATTERS

Mrs. Webb said ES Consulting originally stated the records request would be of little or no cost. They billed the \$1,400 because they thought the attorney was going to pay the bill but the attorney said he wouldn't pay. At what point do we say we are going to pay, or negotiate, but at the same time we are stuck with an unauthorized bill. At some point they should have contacted the city when they knew it was going to be a substantial bill even though they thought the attorney was going to pay.

- Ms. Drake said Attorney Heck put in writing he was going to pay. Perhaps, he should be asked if he will pay at least half of the bill since it was higher than he thought. The city shouldn't pay the full bill.
- Mrs. Webb suggested paying \$700 which is half of the original bill and let the attorney be responsible for the other half.
- Mr. Sowash said the city has a duty to provide public records in whatever media they are in. Due to the size of the request, the most efficient method was to put them in electronic format from the server. The initial understanding was there would be little or no cost. ORC says reasonable has been determined at 5 cents per copy which is a paper copy. Attorney Heck said he would pay reasonable costs. Mr. Sowash said there wasn't a purchase order issued so it doesn't comply with Ordinance No. 12-13, initially it didn't come to us as an invoice, and it came indirectly. We encumbered it because it was directed, it wasn't what anyone expected, and it involves Council's action to authorize payment because of how it got incurred.
- Ms. Hammond said if nothing is done, in March when the State Auditors are here they will charge a findings and order against somebody, it could be the attorney or the Service-Safety Director who authorized it, but they will make the determination because the bill is outstanding.
- There was no written authorization to perform the work or what the cost would be. The city never received a bill. Mr. Sowash said he didn't see how the city could receive findings and orders for this unpaid bill.
- Ms. Hammond thought since ES Consulting didn't provide a written estimate they could be responsible because law states a written estimate must be provided for work over \$500.
- Mr. Weidemyre pointed out that ES Consulting stated in their email they are going to raise the city's rates because of this unpaid bill.
- Council members said they understand the hardship this could have on a small business but the amount was not reasonable when they said it would be little to no cost and they did not keep the city updated on the increasing costs.
- Mayor Collins said ES Consulting worked 18 hours producing the records request.

Ms. Hammond said ADP was hacked into and numerous emails were randomly being sent to employees who have been advised not to open them. No social security numbers have been jeopardized and ADP security is assisting with follow-up on removing any computer viruses.

The next item brought before Council was a liquor permit transfer request from the Ohio Board of Liquor Control for Easy Trip at 3636 Park Avenue West to Seven Eleven. Council members did not request a hearing for the liquor permit transfer.

Regular

October 18

2012

CONSIDERATION OF ORDINANCES AND RESOLUTIONS

RESOLUTION NO. 12 -14

A RESOLUTION TO APPROVE THE RICHLAND COUNTY GIS LOCAL GOVERNMENT INNOVATION FUND GRANT APPLICATION AND TO CONFIRM PARTICIPATION AND MEMBERSHIP IN THE GIS CONSORTIUM.

Mr. Williams made a motion to suspend the rules requiring the reading of Resolution No. 12-14 on three separate days. Mr. Hairston seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Williams read Resolution No. 12-14 for the first time, by title only.

Mr. Williams made a motion to adopt Resolution No. 12-14. Mr. Arnold seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Resolution No. 12-14 was adopted.

ORDINANCE NO. 12 –29

AN ORDINANCE AMENDING ORDINANCE NO. 12-07 KNOWN AS THE PERMANENT APPROPRIATIONS ORDINANCE FOR 2012 BY MAKING ADDITIONAL APPROPRIATIONS TO THE GENERAL FUND, SPECIAL REVENUE FUND AND ENTERPRISE FUND.

Mr. Arnold made a motion to waive the 24 hour rule on Ordinance No. 12-29. Mrs. Webb seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to waive the 24 hour rule passed.

Ms. Drake made a motion to suspend the rules requiring the reading of Ordinance No. 12-29 on three separate days. Mr. Hairston seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Arnold read Ordinance No. 12-29 for the first time, by title only.

Mr. Arnold made a motion to adopt Ordinance No. 12-29. Mr. Weidemyre seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Ordinance No. 12-29 was adopted.

ORDINANCE NO. 12 – 30

AN ORDINANCE AMENDING ORDINANCE NO. 12-26 WHICH ADOPTED REVISED JOB DESCRIPTIONS FOR THE POSITION OF STREETS FOREMAN AND PARKS FOREMAN AND DECLARING AN EMERGENCY.

Mr. Arnold made a motion to waive the 24 hour rule on Ordinance No. 12-30. Mrs. Webb seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to waive the 24 hour rule passed.

Mr. Arnold made a motion to suspend the rules requiring the reading of Ordinance No. 12-30 on three separate days. Mrs. Hellinger seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Arnold read Ordinance No. 12-30 for the first time, by title only.

Mr. Arnold made a motion to adopt Ordinance No. 12-30. Ms. Drake seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Ordinance No. 12-30 was adopted.

Regular

October 18

2012

ORDINANCE NO. 12 – 31

AN ORDINANCE AMENDING ORDINANCE NO. 12-27 BY ABOLISHING THE DE FACTO POSITION OF STREET AND SEWER SUPERVISOR RENAMING THE NEW POSITION OF LIFT STATION PROJECT MANAGER/SEWER FOREMAN AS LIFT STATION PROJECT MANAGER DESIGNATING THIS POSITION AS A DEPARTMENT HEAD, ADOPTING CHANGES IN THE JOB DESCRIPTION AND DECLARING AN EMERGENCY.

Mr. Arnold made a motion to waive the 24 hour rule on Ordinance No. 12-31. Mrs. Webb seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to waive the 24 hour rule passed.

Mr. Arnold made a motion to suspend the rules requiring the reading of Ordinance No. 12-31 on three separate days. Ms. Drake seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Arnold read Ordinance No. 12-31 for the first time, by title only.

Mr. Arnold made a motion to adopt Ordinance No. 12-31. Ms. Drake seconded the motion. Mr. Weidemyre clarified this ordinance is changing the title and allows this position to write purchase orders. Seven members cast their votes Aye, zero Nay, and Ordinance No. 12-31 was adopted.

Mr. Arnold scheduled a Personnel Committee meeting for October 22, 2012 at 3:30 p.m.

Mr. Gleisinger referred to the EPA Findings and Orders. The problem areas are to be monitored which requires the two exiting units to be replaced at a cost of \$7,000. Money is available in the Sewer Line Maintenance fund to cover this expense.

At 8:05 p.m., there being no further business to come before the meeting, the same was adjourned upon a motion by Mr. Arnold and a second by Mr. Hairston. At roll call, seven members voted Aye, zero Nay, and the motion to adjourn passed.

Daniel J. Zeiter, President of Council

Cathy VanAuker, Clerk of Council