

Regular

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Ontario City Council met in regular session on August 1, 2013, in the City Offices, with Council President Daniel Zeiter presiding. The meeting opened at 7:04 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, and Pamela Drake, Council President Daniel Zeiter, Mayor Larry Collins, Assistant Law Director Harry Welsh, Service-Safety Director Roger Heston, Treasurer Linda Stoodt 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 July 18, 2013 were presented for approval. Mr. Arnold made a motion to approve the minutes with a second by Mr. Hairston. At roll call, five members voted Aye, one Abstain by Mr. Weidemyre, zero Nay, and the motion passed.

PUBLIC COMMENTARY

First to come before Council was Treasurer Linda Stoodt, 708 Villa Drive, to express her views regarding Ordinance No. 13-29 which she felt was offensive and unprofessional. The language states attempts to collect have been unsuccessful but no one from Council has verbally or in writing contacted her or Mr. Heston informing them it is an IRS ruling they were no longer eligible for HSA and it needed repaid. The IRS allows employers to compensate employees who are not eligible for HSA, and asked what Council was planning on doing. Mrs. Stoodt said the amounts being requested for reimbursement were incorrect and payback by the end of the year would take 65% of her salary for the next 4 ½ months. Mrs. Stoodt asked that this ordinance be returned to committee for review.

- Mrs. Stoodt acknowledged that she was the treasurer when Mayor Collins was asked to repay his ineligible HSA disbursement and she received his reimbursement check, but he did not turn 65 while in office, and she had forgotten about his repayment.
- Mrs. Stoodt said she began collecting Social Security less than two years ago and this should have been the responsibility of the auditor to notify them because it falls under payroll. This was not her error, the payment was made in error by the former auditor.
- Mr. Zeiter said the discussions were held during public meetings so there were no secrets but there may be some misunderstanding as to how the ordinance was written.
- When Mrs. Stoodt said someone should have informed them this was an IRS ruling, they were not eligible to receive HSA and the amount needed repaid, Ms. Drake said she had that conversation with Mr. Heston.
- The language in the ordinance will be modified.
- Mr. Arnold said the HSA has been turned into a salaried benefit, which it is not, and needs changed.
- Mr. Hairston added that HSA is a tax free benefit and if received in error it becomes a taxable item the year it was received which is why it needs repaid by the end of the year.
- Mrs. Webb said this legislation was not meant to offend, this was the first reading and the referenced sentence was voluntarily taken out. The Mayor and Mr. Heston have been in on the discussion of repayment and it wasn't City Council's position to go to employees, it was Administration's job to handle that role. This has been discussed openly for months in Personnel meetings and the IRS states HSA can't be paid to anyone who wasn't eligible.

The next item to come before Council was a letter read by Mr. Zeiter from resident Alice Walker, 3666 Pearl Street, who could not be in attendance:

“I would have liked to have been able to be at this meeting tonight but I am under a lot of stress with the flooding of my home and my loved one being ill. I got a call from Roger Heston a couple of days after the flood on July 9, 2013 saying I heard you had a flood. He asked how long have you lived there? I didn't answer. He went on to say there are a lot of old houses in that neighborhood, we should have the village buy your house, tear it down, then we wouldn't have any more problems.

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I was really shocked and hurt to hear such words come from an appointed official. I said we keep our home clean and neat.

The point is the water problem! I didn't buy a house by a retention pond to have it overflow and ruin my belongings every time we have a hard rain. Something has to be done!"

- Mrs. Walker was told Mr. Heston and the City Engineer would look at her situation and she would like notified when they do. She has lived in her home over 60 years.
- Mr. Heston said he spoke to Mrs. Walker and he did not tell her the city should buy her house and tear it down. There were a number of other statements in that letter that were not true. He did take the Engineer there but she has not yet told him what they could do because it has been a problem long before his time. Former Engineer Jerrod Swinehart was also out there and he couldn't figure out what to do.
- When Mr. Heston asked Mr. Zeiter if Mrs. Walker was his aunt, Mr. Zeiter responded that she is his wife's step-grandmother.
- Mr. Heston said he disagreed with the letter.
- Mr. Heston said there has been an onslaught of problems from the flooding and many feel the flooding is the city's fault and a 100 year flood should be handled through the system. Mr. Heston was sure when the Engineer has time, she will deal with it.

Next to approach Council was Craig Hunt, 3680 Park Avenue West, to say the retention pond behind the Fire Department drains to a storm sewer by the car lot, then goes to a storm basin and runs the length of the alley behind his house toward Mrs. Walker's house. Half way down the alley there is an inlet of water from the car lot. When the water is above the retention pond it fills the pipe into the alley and runs hard 50 yards to another storm sewer catch basin, takes a 90 degree angle causing the water to cross over the road onto Mrs. Walker's property and down the road. The previous engineer had the owners of the car lot install a curb to catch the water so now when the retention basin by the Fire Department fills up it runs into the parking lot and when it fills up it runs over causing the water to run like a river across their back yards. The last time this flooding took place the engineer put a plug in the pipe to reduce the amount of water exiting the car lot into the alley but it was reduced too much and the car lot fills up and overflows. The 90 degree turn needs removed and the grade into the alley may be too much. Mr. Hunt spoke with the engineer today and he would like to see a solution to fix the problem.

- Mr. Heston said they have looked at this before and intend to talk to the Fire Department about cleaning out the cattails growing in the out bed of the retention pond. The amount of water that goes through there is too much for the existing system which is possibly the oldest storm sewer in the city.
- Consideration will be given to removing the 90 degree angle by cutting the street, installing pipe, and taking it across the street. Once he receives an estimate for this modification he will present it to Council.
- Ms. Drake asked where would the water go if the pipes are put under the street and would it create a new problem. Mr. Heston said the engineer would have to make that determination.

Next to stand before Council was Service-Safety Director Roger Heston, 2419 Ferguson Road, to express his views regarding Ordinance No. 13-29. No one asked him to pay his HSA back, there was talk about it but he was told they would figure out how to do this and now it is to the point that it will be extremely expensive. The former auditor did not make him aware that he was not eligible for HSA money when he turned 65 and he didn't begin receiving Social Security money until January 2013, after the HSA money was deposited into his account by the former auditor. According to the Working Ordinance, Section 15 (A)(1), all city employees are eligible for group hospitalization including eye care, dental care, and prescription drug coverage and Section 15(A)(2) states, the employer shall pay the cost of the insurance and the employer will fund the Health Savings Account. I believe this was a benefit that was promised to me an even though I may not be eligible for HSA money, per the O.R.C. 731.07, the salary of an officer shall not be increased or diminished during the term for which he was elected or appointed, and this section does not prohibit

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the payment of any increased costs to continue to provide the identical benefits provided to the officer at the commencement of his term.

- Mr. Heston said since he was not eligible for the HSA money he felt this code says he should be compensated in another way and the method they are asking for repayment is a violation of the code by changing his salary.
- If this ordinance is passed tonight, and due to the timeframe, it will cause a severe burden to him because it amounts to \$1,230 a month.
- Mr. Heston agreed the HSA system needed changed but it can't start with just two people.

COMMITTEE REPORTS

Mr. Williams reported on the Utilities Committee of the Whole meeting held earlier this evening. OSU representatives presented the new campus district project that would affect the existing sewer system. Ontario was asked to partner with them, along with Mansfield and Richland County, in contributing \$5,000 toward the sewer project study.

A combined Finance/Economic Development/Utilities Committees of the Whole meeting was scheduled for August 15, 2013 at 5:00 p.m.

When Mr. Arnold asked if the Home Road presentation held today had any impact on Ontario, Mayor Collins said it was all Mansfield.

Mr. Hairston said the topic of discussion at the Finance Committee meeting on August 15, 2013 will be to review the expenses six months into the year.

Mr. Weidemyre reported on the Economic Development Committee meeting held earlier this evening and announced the company looking to locate at the Beer Road Industrial Park has accepted the counter offer and will now proceed with a due diligence on the property. Closing should take place by the first of the year and this company is planning on bringing in 150 jobs. During the upcoming committee meeting they will discuss how to construct the roadways within the property.

Mrs. Webb spoke to Brian Thompson but as of yet he does not have any information from Medial Mutual to assist them making the decision if they should renew the health insurance early.

Ms. Drake had no report.

MAYOR'S REPORT

Mayor Collins had no report.

Mayor Collins responded to questions.

- Recently the part-time administrative assistant retired and her responsibilities were distributed between two office employees. The duties the administrative assistant was performing could easily be assumed by the Water Clerk. He would like the new mayor to fill the administrative assistant's position.
- Because the Clerk of Courts is too busy to handle the front office alone, the Water Clerk sits in the front office to help but hasn't physically moved her office.

SERVICE-SAFETY DIRECTOR'S REPORT

Mr. Heston had no report.

Mr. Heston said the employee hired for the laborer position begins August 12, 2013.

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Mr. Weidemyre asked if there was something that could be done about the current email system. The email with the Industrial Park contract ended up in SPAM and had he not contacted the company he would not have known it was sent.

- Mr. Heston said if an email goes to more than one person it is likely to go into SPAM.
- The original email was sent by the Clerk of Council which this company replied on and attached the contract.
- Mr. Heston will check on the email protocol with the IT consultants.

LAW DIRECTOR'S REPORT

Mr. Welsh referenced his memo pertaining to the vacancy on Council due to Mrs. Hellinger's retirement and the changes to the voting rules. Council may now suspend the reading on three days with five members voting in the positive instead of six. Absences don't apply to this number change, but vacancies do.

- The Republican Central Committee must meet not less than five days or more than forty-five days following the vacancy.

MISCELLANEOUS

Mr. Weidemyre was contacted by RCDG regarding the Lincoln Highway monument and if this project was not going forward the funding would be redirected elsewhere.

- The project was only going to be done if the funding covered the cost of the project.
- The architect charged \$2,000 which was unexpected.
- Council members agreed the project was going to cost more than the funding and RCDG could release the money.

Mr. Arnold made a motion authorizing Mr. Weidemyre to sign the Letter of Agreement regarding the proposed due diligence work on approximately 22.1 acres located in our Industrial Park that was submitted on July 12, 2013. Mr. Hairston seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and the motion passed.

CONSIDERATION OF ORDINANCES AND RESOLUTIONS

RESOLUTION NO. 13- 05

A RESOLUTION ADOPTING THE TAX BUDGET FOR THE CITY OF ONTARIO FOR THE FISCAL YEAR 2014, AND DECLARING AN EMERGENCY.

Ms. Drake read Resolution No. 13-05 for the third time, by title only.

Ms. Drake made a motion to adopt Resolution No. 13-05. Mr. Williams seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and Resolution No. 13-05 was adopted.

ORDINANCE NO. 13-22

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ADVERTISE FOR COMPETITIVE BIDS FOR A REMOTE WATER METER READING SYSTEM AND DECLARING AN EMERGENCY.

Mr. Williams read Ordinance No. 13-22 for the third time, by title only.

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Ms. Drake made a motion to adopt Ordinance No. 13-22. Mr. Williams seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 13-22 was adopted.

ORDINANCE NO. 13-24

AN ORDINANCE NAMING THE PARK LOCATED IN THE SPRING VILLAGE SUBDIVISION DORIS CARR PARK.

Mr. Williams made a motion to suspend the rules requiring the reading of Ordinance No. 13-24 on three separate days. Ms. Drake seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Arnold read Ordinance No. 13-24 for the second time, by title only.

Mr. Arnold made a motion to adopt Ordinance No. 13-24. Mr. Williams seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 13-24 was adopted.

ORDINANCE NO. 13 – 25

AN ORDINANCE AWARDING A CONTRACT TO SIMONSON CONSTRUCTION SERVICES, INC. OF ASHLAND, OHIO, FOR THE CONSTRUCTION OF THE EQ BASIN FOR THE ROCK ROAD SANITARY SEWER OVERFLOW IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY.

Mr. Williams made a motion to suspend the rules requiring the reading of Ordinance No. 13-25 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. Hairston read Ordinance No. 13-5 for the second time, by title only.

Mr. Hairston made a motion to adopt Ordinance No. 13-25. Mr. Williams seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 13-25 was adopted.

ORDINANCE NO. 13-26

AN ORDINANCE APPROVING THE EDITION AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF ONTARIO, OHIO.

Mr. Weidemyre made a motion to suspend the rules requiring the reading of Ordinance No. 13-26 on three separate days. Ms. Drake seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Weidemyre read Ordinance No. 13-26 for the first time, by title only.

Mr. Weidemyre made a motion to adopt Ordinance No. 13-26. Mrs. Webb seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 13-26 was adopted.

ORDINANCE NO. 13-27

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE DIRECTOR OF THE OHIO

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DEPARTMENT OF TRANSPORTATION TO HAVE THIS CITY SERVE AS THE RESPONSIBLE LEAD AGENCY FOR THE WEST FOURTH STREET REPAVING AND REHABILITATION PROJECT, AND DECLARING AN EMERGENCY.

Mr. Williams made a motion to suspend the rules requiring the reading of Ordinance No. 13-27 on three separate days. Ms. Drake seconded the motion. Six members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mrs. Webb read Ordinance No. 13-27 for the first time, by title only.

Mrs. Webb made a motion to adopt Ordinance No. 13-27. Ms. Drake seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 13-27 was adopted.

ORDINANCE NO. 13-28

AN ORDINANCE AUTHORIZING THE SAFETY-SERVICE DIRECTOR TO ADVERTISE FOR COMPETITIVE BIDS AND AWARD PHASE III OF THE I & I REDUCTION PROGRAM, FORMERLY KNOWN AS THE FRAZIER ROAD PROJECT, AND DECLARING AN EMERGENCY.

Ms. Drake made a motion to suspend the rules requiring the reading of Ordinance No. 13-28 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. Ms. Drake read Ordinance No. 13-28 for the first time, by title only.

Ms. Drake made a motion to adopt Ordinance No. 13-28. Mr. Williams seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 13-28 was adopted.

ORDINANCE NO. 13-29

AN ORDINANCE DIRECTING THE CITY AUDITOR TO RECOVER FROM THE COMPENSATION OF THE CITY SERVICE-SAFETY DIRECTOR AND THE CITY TREASURER BY PAYROLL DEDUCTION, IF NECESSARY, THE SUM IMPROPERLY PAID TO EACH DURING 2012 AND 2013 AS HEALTH SAVINGS ACCOUNT MONEY TO WHICH THEY WERE NOT ENTITLED, AND DECLARING AN EMERGENCY.

Hearing no motion to suspend the rules requiring the reading of Ordinance No. 13-29 on three separate days, Mr. Williams read Ordinance 13-29 for the first time, by title only.

ORDINANCE NO. 13-30

AN ORDINANCE AMENDING ORDINANCE NO. 13-18 BY CLARIFYING THAT PAYMENTS INTO AN EMPLOYEE'S HEALTH SAVINGS ACCOUNT (HSA) DURING THE YEAR HE/SHE LOSES ELIGIBILITY BECAUSE OF ENROLLMENT IN MEDICARE OR RECEIVING SOCIAL SECURITY RETIREMENT BENEFITS AND WHO IS AT LEAST SIXTY-FIVE YEARS OF AGE OR OLDER SHALL BE PRO-RATED UP TO THE DATE OF INELIGIBILITY TO RECEIVE THESE BENEFITS.

Mr. Arnold made a motion to suspend the rules requiring the reading of Ordinance No. 13-30 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. Arnold read Ordinance No. 13-30 for the first time, by title only.

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Mr. Arnold made a motion to adopt Ordinance No. 13-30. Mrs. Webb seconded the motion. Hearing no further discussion, six members cast their votes Aye, zero Nay, and Ordinance No. 13-30 was adopted.

At 7:58 p.m., Mr. Williams made a motion to enter into executive session, per O.R.C. 121.22(G)(3), conference with an attorney concerning pending or imminent court action. Mr. Hairston seconded the motion. At roll call, six members voted Aye, zero Nay, and the motion passed.

At 9:05 p.m., Ms. Drake made a motion to reconvene into regular session. Mr. Williams seconded the motion. At roll call, six members voted Aye, zero Nay, and the motion passed.

At 9:06 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. Hairston. At roll call, six members voted Aye, zero Nay, and the motion to adjourn passed.

Daniel J. Zeiter, President of Council

Cathy VanAuker, Clerk of Council