

MINUTES OF CITY COUNCIL MEETING, CHEVIOT, OHIO

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February 17, 2009

The regular session of Council was called to order at 7:37 P.M. with the Pledge of Allegiance and a moment of prayer. Roll call was taken and the following were found in attendance:

Mayor	Samuel D. Keller
President of Council	Deborah M. McKinney
Safety Service Director	Steven O. Neal
Law Director	Mark G. Waters
Council 1 st Ward	Ryan A. Zech
Council 2 nd Ward	Matthew D. McGowan
Council 3 rd Ward	James F. Sunderhaus
Council 4 th Ward	Greg J. Stautberg
Council at Large	Kathleen S. Zech
Council at Large	Dennis T. Dinkelacker
Council at Large	Steve L. Braun

President McKinney stated that there would be an Appropriations Ordinance introduced by Mr. Stautberg and the Second Reading of the Taxi Cab Ordinance. President McKinney called for any other reports or legislation to be presented. The minutes of February 3, 2009 were approved with an amendment to be added by Clerk McKinney, concerning the state's liability of the Harrison building that was condemned, by a 7-0 voice vote (First by Ms. Zech, seconded by Mr. Dinkelacker).

Public Recognition on Agenda Items

No members of the Public were recognized to address any of the agenda items.

Reports of Standing Committees

No Reports were read into the record.

Introduction of Ordinances and Resolutions

Ms. Zech did the Second Reading of an ordinance *To Repeal Chapter 112 of the Cheviot Code of Ordinances*.

Mr. Stautberg made a motion to introduce by Title an ordinance *To Amend the 2009 Annual Appropriations; and to Declare an Emergency*. An introduction was made by Mr. Stautberg and seconded by Mr. Sunderhaus. The motion passed with a 7-0 voice vote. The ordinance was assigned ordinance number 09-02. A motion to suspend the rules was made by Mr. Sunderhaus and seconded by Mr. McGowan. A roll call vote was taken and the motion passed 7-0. There was no discussion or questions about the ordinance. A motion to adopt was made by Mr. Zech and seconded by Mr. Dinkelacker. A roll call vote was taken and the ordinance was adopted with a 7-0 vote.

Mayor's Report

Mayor Keller reminded Council that 2009 is a bargaining year for Fire, Police, and Public Works Contracts. Mayor Keller asked that Mr. McGowan, Ms. Zech, and Mr. Waters review the previous contracts supplied to them, and he will be contacting them within the week to set a date to discuss negotiations. The Mayor also noted that Tom Braun notified him that the Glenmore \$1 house is moving along and should be ready for the First Time Home Buyers Meeting scheduled for the spring.

Mr. Stautberg thanked the Mayor for the celebration in honor of former Treasurer Paul Dorenkemper.

Safety-Service Director's Report

Mr. Neal has talked to the City Engineer concerning the new stimulus program that was recently passed by the federal government. OKI will be directing the grants locally and are looking for 'shovel ready' projects for the grants. Mr. Neal hopes that Phase II of the Harrison repaving project will meet the requirements for these grants. Mr. Neal informed Council that what projects are funded will be 100% by the federal government but the City will have to pick up the Engineering. Mr. Neal noted that the process is moving very quickly.

Mr. Neal updated Council on the Hamilton County Community Development Grant (\$300,000) for the neighborhood stabilization program. Mr. Neal said this money is to be used to purchase foreclosed houses, rehabilitate houses and overall turn the direction of the housing in the community.

Finally, Mr. Neal stated that the Harrison condemned property is still listed under the formal owner according to the Hamilton County Auditor's website. Ms. McKinney informed Mr. Neal that she has spoken to Mr. Waters concerning this and according to the Clerk of Courts; the property was deeded to the state but unfortunately not followed through on the county end. Mr. Waters, Ms. McKinney, and Mr. Neal will confer.

Mr. Sunderhaus reminded Mr. Neal that the city still has approximately ten fire plugs left to be replaced in the city and asked that if possible some of the stimulus money be spent to replace them. Mr. Sunderhaus asked if they would be considered as a shovel ready project. Mr. Neal explained the differences in the older and new hydrants and that the cost to replace them ranges from \$6-8 thousand.

Mr. Waters asked Mr. Neal for the address to the Harrison Avenue building. Mr. Neal informed him he would get him the requested address.

Law Director's Report

Mr. Waters notified Council he received notice from the Fraternal Order of Police of a complaint of unfair labor practices based on the changes in shift scheduling. Previously shifts in the police department were fixed, now they are rotating. Mr. Waters has filed a response to the complaint with the State Employment Relations Board and expects to have a status report within a week or two. Mr. Waters will keep Council updated.

Public Recognition on Other Issues

Edward Mormile – North Bend Road
Licensing Fees and the Garbage Fee

Mr. Mormile spoke about renewing his driver's license and the taxes that are distributed when doing so. Mr. Mormile commented that the taxes are going to Green Township instead of Cheviot. Mr. Mormile feels the public should be informed of this and request a correction be made when renewing one's license.

Mr. Mormile also commented that he has no problem with the \$10 fee, but that the public was not aware the garbage fee was only going to be split over two water bills. Mr. Mormile also noted that the fee is for 13 months and not a year. He also believes that the rental units are getting a better deal than the individual resident.

Mr. Mormile complemented the great work the city has done recently concerning snow removal.

Mr. Neal stated there is a company that audits the licensing fees and whatever mistakes are made are then caught, and the money is returned to Cheviot. The Mayor stated that he also corrects the licensing bureau when renewing his plates.

Mr. Stautberg stated that the 13 month cycle for the garbage fee was stated at all three public hearings and the decision to split the fee between the first two water bills was made and announced at the last public hearing at the Field house. Mr. Stautberg stated this was done to ensure revenue from the fee was received this year.

Marilyn Hastie – River Walk
Waste Collection

Ms. Hastie stated she was born in Cheviot and has been a longtime resident. Currently, she does not live in Cheviot but does have a two family rental property here. The property has been vacant for the last three years and has not used any waste collection. She is displeased with the charges for the garbage fee when the house currently sits vacant. Ms. Hastie would like the charge removed from her bill. The Mayor stated the fee was presented as a waste collection fee, but it includes the whole package. The Mayor encouraged Ms. Hastie to review her taxes on the Auditor's website to see how much money actually goes to Cheviot. The Mayor reminded the public that this tax money is the homeowners' contribution to all the services the city provides (i.e. Police, Fire, Garbage, Snow Removal, etc.). Ms. Hastie feels that it is illegal to charge her for a service she did not request or does not use. The Mayor reiterated that the fee covers all the services. The Mayor reminded the public of a Finance Committee Meeting immediately following the General Council Meeting and that a long term solution is being discussed. The Mayor stated something will be placed on the ballot for the citizens to vote on.

Ron Schwartz – Meyerfeld Avenue
Neighborhood Disruption by Black Sheep

Mr. Schwartz stated he has lived in Cheviot for 13 years and has a complaint about the Black Sheep. Between the hours of 12-3 am, there is no peace in the neighborhood. Mr. Schwartz stated he has called dispatch for the past 17 weeks in addition to speaking to Mr. Neal. Mr. Schwartz has witnessed people urinated in the middle of the street, leave the bar drunk and drive, and scream at very high volumes. This situation is causing anxiety for Mr. Schwartz. Mr. Schwartz has spoken to neighbors, and Council Ward 1 representative, Ryan Zech. Mr.

Schwartz believes the Black Sheep is over serving its patrons. Mr. Schwartz is coming to Council for some solution to a serious problem. He asked about lack of law enforcement and stated this is a quality of life issue. Mr. Schwartz stated that he hopes Council takes this formal complaint to heart. Mr. Zech will address this in a meeting with the residents and decide the next course of action.

Simon (and Monica) Andrews – North Bend Avenue
Black Sheep

Mr. Andrews informed Council of the traffic through his yard by patrons of the Black Sheep. Mr. Andrews has been told by neighbors that people are passing out in his yard. He has found beer bottles are found inside his fence, the offensive language is loud, there is fighting, and it is getting outrageous. Mr. Andrews would like to stop the problem before it gets out of hand; some say it is already out of hand.

Maria Westrich – Harrison Avenue
Traffic Light on Harrison/Lovell

Ms. Westrich owns the hair salon located on the corner of Lovell and Harrison and has been there 28 years. She has done a lot of research concerning the removal of the traffic light in this intersection. Ms. Westrich spoke to the Ohio Department of Transportation and was informed that their decision to remove the light was based on the information provided to them by the city's engineering department. Ms. Westrich was concerned with the process taken to evaluate the removal of the light. She stated the data that was used was from a 2005 study and that only a four hour test was done. Ms. Westrich informed Council that 8 businesses will be affected by the removal of this light and a study should be done on the effect of the removal. She stated that the light has been there for over 40 years. Ms. Westrich questioned the liability of keeping the light. Ms. Westrich spoke to Mark Klusner at CDS and Andy Flugelman at ODOT.

Mr. Neal stated that Mr. Flugelman is a Cheviot resident as well as Tom Lanengbruner from Hamilton County. Ms. Westrich stated that Mr. Lanengbruner said removal of the light would be a traffic problem.

Ms. Westrich pointed out the information she found concerning warrants to keep the light and that the wrong information may have been supplied to ODOT for consideration.

Ms. Westrich supplied a copy of the warrants to Council to review.

Ms. Westrich stated that ODOT would have possibly changed his decision if he was aware that businesses were involved and community members were upset. If there would have been an outcry of the community, he would have had to look into it more closely. Ms. Westrich commented that no one knew about the removal of the light before last week.

After much discussion by Ms. Westrich, City Council, and Administration, Mr. Neal requested that a meeting be scheduled with CDS (the city's engineer) and ODOT.

Mr. Waters addressed the issue of liability and if it is a monetary or legal question. Mr. Waters previously supplied a legal opinion to the city at Mr. Neal's request. Mr. Waters stated the city would not be legally liable either way.

Mr. Zech stated that if the city contracted with CDS for the job, it should be done right.

Ms. McKinney suggested a Street, Sidewalks, & Lights Committee meeting be scheduled. The meeting was set for Tuesday February 24, 2009 at 7:00pm. Mr. McGowan, Committee Chair, requested that CDS be present. The Mayor stated that at 8:01am the next morning, Mr. Neal will be on the phone with CDS to clarify this issue. The City of Cheviot spent an additional \$4000 trying to get the light warranted.

Bill Westrich – Harrison Avenue
Traffic Light and Parking Meters

Mr. Westrich questioned if there is a paperwork/documents concerning the parking meters in different intersections in the city. His peak season is coming in and with removal of the meters he is out of business. Mr. Neal commented that the discussion is concerning removal of ten parking meters to have a line of sight. Mr. Westrich stated that there are other intersections where the parking meters are very close to the corner. Mr. Neal stated he would have to ask the police chief as to how far away one would need to park. The Mayor stated he is on the same page as the residents and along with council would love to see the light stay. Mr. Westrich is also concerned with Harrison Avenue turning into a "raceway" with removal of the light.

Randy Farrell – Harrison Avenue
Parking Meters

Mr. Farrell commented that all his concerns have already been voiced.

William Clark – Alta Vista
Traffic Light – St. Martins Parish

Mr. Clark is concerned with how the traffic light issue was addressed with the media. Mr. Clark stated that the media has reported the city's liability for suit. Mr. Neal discussed his conversations with Mr. Waters regarding the legal liability of keeping or removing the light. Mr. Clark asked Council to request a formal law opinion of Mr. Waters regarding the traffic light. Ms. Zech stated that Council has no say in the matter at hand. An opinion can be requested but Council can do nothing about it. Mr. Neal has a written opinion from Mr. Waters. Ms. McKinney discussed the definition of liability and how it was stated in a letter from ODOT. Ms. McKinney interpreted that the city would be financial liable for the signal not legally. Ms. McKinney stated that is where the confusion exists. Mr. Neal suggested that the legal opinion supplied by Mr. Waters be made public. Mr. Waters stated that the Ohio Revised Code is pretty clear on when a city is liable for roads, it must be free of nuisance. Beyond that the city has complete governmental immunity. It is purely a business and policy decision. Ms. Zech stated that the cost to keep the light is between \$20-50 thousand. Ms. Zech questioned if the light stayed, could the city get a mast arm to replace it. Mr. Neal said the cost would be very high. Mr. Zech asked that if ODOT does determine the light is warranted, will it be paid for. Mr. Neal said yes. The Mayor stated because the light was not warranted, it could not be included in the project because the city did not have the money. The Mayor asked of Mr. Clark, as a matter of public record, if there had been anytime during this process he lied to Mr. Clark or gave him false information. Mr. Clark stated there was one instance in October, on a handshake, that if Mr. Clark was able to get Mr. Waters to give the opinion that the city would not be liable if an accident occurred, the light would stay. Mr. Clark stated that a few months later, that stipulation changed to plus \$20,000. The Mayor stated he did not recall that exact conversation but did request a legal opinion from Mr. Waters and that the money was needed as well. The meeting centered around Senator Kearney, which the Mayor could not attend.

Other Business

Mr. Waters asked Chief Voss to be informed when the liquor license for Black Sheep was due for renewal, could Council be informed. Renewals are done annually in May. The clerk only receives notice if it is a transfer.

Mr. Stautberg reminded Council that about the meeting of the Finance Committee immediately following the Council Meeting.

Mr. Stautberg also announced another Finance Committee Meeting for Thursday February 26, 2009 at 7:00 pm.

Mr. Dinkelacker reviewed with Council all the work Community Services West (CSW) does for the Citizens of Cheviot in contemplation of the City's \$5000 donation for the year. After reviewing the trips CSW provides for the elderly and the meals provided, Mr. Dinkelacker suggested that Council proceed with their \$5000 donation. Mr. Waters commented that the \$5000 is a grant to CSW and not a contract with them for services. Mr. Neal commented that CSW asked for the money in December and they have been patiently waiting. Ms. McKinney asked that this briefly be discussed in the finance meeting after council so that the money can be donated. Mr. Stautberg also added that in previous years the city donated \$10,000 and the donation has been reduced to \$5000 in the past few years.

Mayor's Court and Treasurer's Receipts

A Treasurer's Report was submitted by Mr. Norman. A motion to receive and file was made by Mr. Stautberg and seconded by Mr. McGowan. The motion passed with a 7-0 voice vote.

Correspondence

- Renewal of the Liquor License for Shamrock
- 5 Building Permits January 2009
- Court Dates for Magistrate Court
- Liquor License transfer for Webbie Pooh's Drive Thru
- Treasurer's Report January 2009
- One Signage Report from the Building Department

There was a motion to adjourn the meeting by Mr. Zech with a second from Mr. Zech. The motion passed 7-0 by voice vote. The meeting adjourned at 8:45 P.M.

Rachel A. McKinney
Clerk of Council

Deborah M. McKinney
President of Council