

CITY COUNCIL MEETING – MONDAY, JUNE 14, 2010

The Council of the City of Zanesville met in regular session at 7:00 p.m., Monday June 14, 2010 in the City Council Chambers, 401 Market Street, Zanesville, Ohio.

Mr. Vincent led those present in the Lord's Prayer and the Pledge of Allegiance to the Flag.

The following members of Council answered Roll Call: Mrs. Norman, Mr. Kilpatrick, Mr. Hutcheson, Mr. Roberts, Mr. Tilton, Mr. Zakany, Mr. Baker Mr. Tarbert, Mrs. Gentry, and Mr. Vincent.

APPROVAL OF MINUTES

Mr. Zakany moved to accept the minutes as printed of the Regular Meeting of May 24, 2010, seconded by Mr. Tilton. Motion carried.

COMMUNICATIONS, REPORTS, AND RESOLUTIONS

Communication from Howard S. Zwelling, Mayor – Board Appointments

Zanesville Shade Tree Commission – I am hereby recommending the appointment of Mr. Buck Brackman, Mr. Scott Peterson, and Mr. Rob Guentter to the Zanesville Shade Tree Commission, all to serve for a term of two year period. Their term will expire May 24, 2012.

Mr. Tilton moved to receive and concur, seconded by Mr. Roberts. Motion carried.

PROPOSED ORDINANCES

Ordinance No. 10-43 – Introduced by Council – An ordinance to amend and revise the zoning map and make permanent zoning in the City of Zanesville, Ohio as herein provided.

Mr. Tarbert moved for first reading, seconded by Mr. Roberts.

Mr. Hutcheson: I have a motion to table indefinitely and ask for roll call vote.

Mr. Vincent: The motion to table indefinitely, is that acceptable?

Mr. Hillis: It will come back at the next council meeting.

Mr. Vincent: It will be back at the next council meeting?

Mr. Hillis: Sure will, if you do not set a definite time period.

Mr. Hutcheson: I researched the definition of "indefinitely". I was talking with a former law director and he stated that he could "kill" it at any time or it could come back with another council. But there is no time limit set. It could come back tomorrow or come back at the next council meeting, but there is no time limit. It is just when council feels it is time to bring to back.

Mr. Hillis: A motion to table has to have a specific time period to table it, if it does not then in the two week period is come back at the next council meeting.

Mr. Vincent: So it needs a set date.

Mr. Hillis: You can set a date or table indefinitely, it will come back in two weeks.

Mr. Hutcheson: We will set for the next council meeting will be June 28th.

Mr. Zakany: Before we move on we have first reading on the floor and if we override that with indefinitely. Which one?

Mr. Hillis: The motion to table takes precedence over any other motion. You just made a motion to table it until June 28th. That is the motion he just made.

Mr. Zakany: Can we do it indefinitely?

Mr. Hillis: You can say indefinitely and that means the next meeting it will be up. If you want to table it for 2 weeks, 4 weeks, 6 weeks, 20 weeks, that is a period. If you set it for indefinitely, which has no defined period, then it comes to the next meeting.

Mr. Tarbert: Is there discussion on a motion to table?

Mr. Hillis: No.

Mr. Vincent: So now the motion is to table until June 28th by Mr. Hutcheson, do I have a second on that?

Seconded by Mrs. Norman.

R. C. to table

5 Ayes – 4 Nays (Mr. Roberts, Mr. Tilton, Mr. Baker, Mr. Tarbert) Motion carried.

Mr. Vincent: For those of you that came to speak this evening, thanks for coming, my apologies.

Ordinance No. 10-44 – Introduced by Council – An ordinance to adopt the proposed Civil Service Rules and Regulations and declaring an emergency.

Mr. Vincent: Why does this need to be an emergency?

Mr. Hillis: I believe that the Civil Service Rules to go into effect as soon as possible. They have been holding this up for several months. They have had hearings and they had everyone in the city present, they had the attorney that drafted this here to answer questions and there were some suggestions for redrafts. It came back to Civil Service Commission and they passed it. They would like the rules to take effect so they can conduct their meetings by the new rules.

Mr. Vincent: What would change if this did not pass tonight? Is it going to make any difference in anything?

Att. Herbert Baker, Civil Service Commission Member: Are you talking about how this will affect legislation tonight?

Mr. Vincent: Do we need to get this done as an emergency tonight?

Att. Baker: It wouldn't have to be done tonight; frankly I doubt that it could cause any change or what else you are doing tonight. I don't think it will have any effect.

Mr. Vincent: I didn't get a chance to see what has changed. I need a motion to go first reading or to waive.

Mr. Roberts moved for first reading, seconded by Mr. Baker.

Mr. Roberts: Could we get something that shows what has changed? Like a small report?

Mr. Vincent: I would like that. The push for things in the future when documents like this that maybe they put the changes in bold or underline them so Council can focus in on what the changes are.

Mayor Zwelling: Mr. Baker is here and he is on that board. He nodded his head "yes" that such information can be gotten for Council.

Att. Baker: Virginia Hanifan is very careful about keeping records and I am sure she has every major step in the process, how legislation existed, how it has been changed. I am sure she can

get that to you right away. It shouldn't be a problem at all. There isn't earth shaking reason that it needs passed tonight. Basically what we are doing to bring the Civil Service portion of the Codified Ordinances in compliance with the Revised Code.

Motion carried.

Ordinance No. 10-45 – Introduced by Council – An ordinance allowing a moral claim.

Mrs. Gentry moved for first reading, seconded by Mrs. Norman.

Mr. Tilton: Mr. Hillis could you tell me when this claim was brought to the city? Was it May 25th?

Mr. Hillis: It was received by the Clerk of Council on May 25, 2010.

Mr. Tilton: So it happened in January and we didn't get the claim until May? Correct?

Mr. Hillis: I wouldn't know that. The Clerk of Council would know that. They don't submit claims to me they submit them to the Clerk of Council. She sends them to the department to go through an investigation then the department forwards it to me.

Mr. Tilton: I am just questioning if this happened January 15th all the estimates are dated in May what happened to this vehicle for four months? Did they drive this vehicle for four months or was it sitting around? If they bent all four wheels and busted a wheel bearing I am curious.

Mr. Hillis: I did not look into it that much because I denied it. Since I didn't feel we were liable I did not put a lot of time into looking at what they claim we owe them because I don't think we owe them a thing legally.

Mr. Vincent: Mrs. Gentry did you meet with gentleman?

Mrs. Gentry: No. He called me on the phone.

Mr. Vincent: Do you have any details?

Mrs. Gentry: No

Mr. Zakany: Is he here to speak to Council?

Mr. Vincent: Doesn't appear so, we do not have any petitions.

Mr. Gentry: He is from McConnelsville so he just chose a Council person to put this on as a moral claim. I happened to be the one.

Mr. Sims: Just for Council's consideration as this goes through the readings, this looks like the damage resulting from the water line project which the plating was put in place by the contractor and whether that makes the city the liable party or the contractor the liable party or anyone the liable party, I don't know. That was the contractor's plates.

Motion defeated.

Mr. Vincent: The first two readings do not matter whether they are passed or not they still come back.

Mr. Tarbert moved to waive the three readings, seconded by Mr. Tilton.

R. C. to waive

5 Ayes – 4 Nays (Mr. Hutcheson, Mr. Zakany, Mrs. Gentry, Mrs. Norman)

Motion defeated

Mr. Vincent: First reading holds. It will come back next time. With that Council adopted, long before my time, the pattern of voting on first and second readings, even though it is not necessary, it just gives people a feel as to where things are. It just helps Council make decisions. Just to clarify as to what we are doing. There is reason to our actions.

estimate is performed by Tim Smith with his experience with the demolitions that we have had and the disposal fees that are necessary. It will be advertised and go out for bid, so it will be competitive.

Mr. Kilpatrick: So E. A. will not actually do the remediation work?

Mrs. Clapper: No, they are not abaters there are just an environmental consultant that will manage the project.

Mr. Kilpatrick: Once this work is done and the money is expended will we have a lien on this property for whatever it is worth?

Mrs. Clapper: We will put a lien on this property for all costs, our infill costs expended to demolish this property. That will include the abatement.

Mr. Kilpatrick: I expect the lot will not be worth anywhere close to the money that we will spend.

Mrs. Clapper: The lien will have all the hard and soft costs.

R. C. for passage
9 Ayes – 0 Nays

Motion carried.

Ordinance No. 10-49 – Introduced by Council – An ordinance authorizing the proper city official to advertise for bids and enter into contracts for the demolition at 104 Eighth Street, Zanesville, Ohio under the City’s Neighborhood Stabilization Program 2008 Grant and declaring an emergency.

Mr. Tilton moved to waive, seconded by Mr. Baker.

R. C. to waive
9 Ayes – 0 Nays

Motion carried

Mr. Zakany moved for passage, seconded by Mr. Baker.

R. C. for passage
9 Ayes – 0 Nays

Motion carried

Ordinance No. 10-50 – Introduced by Council – An ordinance authorizing the proper city official to file an application for administration of CDBG, Neighborhood Revitalization Program Funds FY 2010 Formula Grant and declaring an emergency.

Mr. Tilton moved to waive, seconded by Mr. Roberts.

R. C. to waive
9 Ayes – 0 Nays

Motion carried

Mrs. Norman moved for passage, seconded by Mr. Zakany.

R. C. for passage
9 Ayes – 0 Nays

Motion carried

ORDINANCES FOR ACTION

Ordinance No. 10-36 – Introduced by Council – An ordinance adding Chapter 1355 to the Codified Ordinances of the City of Zanesville.

Mr. Tilton: Last week we had a meeting of the Code Enforcement Committee and during that meeting we had a lot of suggestions. Mr. Smith would like to make some amendments to this ordinance and he is out-of-town this week.

Mr. Tilton moved to table for two weeks, seconded by Mr. Baker.

Motion carried.

Ordinance No. 10-37 (Amended) – Introduced by Council – An ordinance allowing a moral claim.

Mr. Norman moved for 2nd reading, seconded by Mr. Tarbert.

Motion carried

Mr. Hillis: Did anyone asked to make a motion to substitute the amendment? It was amended between the last meeting and this one. Someone needs to make a motion to amend.

Mr. Vincent: We voted on an amended version that was never accepted, so we need to backup and I need a motion to accept the amended version so we can vote properly.

Mr. Tilton moved to accept the amendments for Ordinance No. 10-37, seconded by Mr. Norman.
Motion carried.

Mr. Vincent: Now we may legally vote on Ordinance No. 10-37 as amended.

Mr. Zakany moved for second reading, seconded by Mrs. Norman.

Motion carried.

Ordinance No. 10-40 – Introduced by Council – Authorizing the proper city official to provide funds to the Zanesville-Muskingum County Port Authority for organizational, promotional, and operational expenses.

Mr. Tilton moved for second reading, seconded by Mr. Hutcheson.

Motion carried

Mr. Tarbert abstained.

Mr. Tarbert moved to accept the amendments for Ordinance No. 10-42, seconded by Mr. Tilton.

Mr. Zakany: This claim and of course and this person fell into this ditch or hole, I guess the city never found the hole. Also it was in the day time. Why couldn't a person see a hazard place in the day time? You think they would realize. You need to be responsible for your own well being.

Motion carried

Ordinance No. 10-42 (Amended) – Introduced by Council – An ordinance allowing a moral claim.

Mr. Tilton moved for second reading, seconded by Mr. Hutcheson.

Motion carried.

PRIVATE PETITIONS AND COMMUNICATIONS

Petition from Teddy and Catherine Newell – PO Box 1433, Zanesville, Ohio - Code Issue

Mr. Vincent: Before you speak, I wanted to clarify that I have not been good about enforcing the three minutes time limit. When someone is speaking there is a three minute time limit and I will let them know. If Council would like to have them continue speaking I will need someone to make a motion to waive the three minute rule and a second and then Council will vote on that. Just to let you know and I planned on saying this before, it is not personal.

Mr. Newell: I am going to let my wife do all the talking, but I have pictures here when I went up there on Galigher Street that I went bankrupted on. Tim (Smith) says I still own the property, I don't own the property. I went on the Internet and in five minutes I found out that PNC bought this house back for \$12,000. He says I still own it. I do not own this. I told him I don't own this. The Mayor called him and I even talked to Bob Brandford. Now you have a dump up there that is full of trash out in the yard and now I have to pick it up. The bank that owns this white house they just keep throwing the trash out from the porch. I went up there and mowed the grass at 149 Galigher Street which used a gallon of gas. I have tried to talk to the councilman Baker

about it and I couldn't get no more headway with him. This is what I got. (Pictures). If you guys want to look at them, that's fine. But that is what I got and if I keep talking about it I will blow up. It isn't right for him to go around and pick on one person. But the way I feel about it if there is a "for sale" sign and that grass is high the people that are selling the house should be made to mow the grass. It is plain and simple. How much better can you get it? If the people that own it have a "for sale" sign they should be held responsible to mow the grass and you shouldn't have to register the house. If there is a "for sale" sign in it, mow it.

Mr. Baker: You have actually went up there yourself several times and mowed the grass.

Mr. Newell: I mow my grass on my own two lots. There are two lots up there that was given back to me because they said they couldn't sell. So I had to take care of them. Since I have to take care of them I even called Mr. Baker the Friday before Memorial Day when everything was closed down and I even flagged down a city truck to get the number to his office. I have seven kids, one foster son, and 12 grandchildren, they were willing to go up there, and clean that mess up. That was donated time to city that the city could have had charged toward whoever. It's like a city dump going on up there now.

Mr. Vincent: Mr. Brandford, you are aware of this?

Mr. Brandford: Yes, I am aware of this. He talked to me about 10:30 this morning and I told him I would be up. He said he would be up there cutting grass. He wasn't there when I got there but I did go up and the address that he is talking about is 1067 Alice Street. I went around to the back and I did see where there is a lot of trash, couple tires, and things like that. I am sure that is the property he is talking about.

Catherine Newell: This is down over the hill. We own those two empty lots. We are willing to clean that up.

Mr. Brandford: Is it Alice you are talking about? Your husband was talking about another issue on Gailgher too.

Catherine Newell: Tim was writing us up about talking care of the house, but it is not ours.

Mr. Brandford: Tim was writing about the 1067 Alice Street?

Catherine Newell: That's the one that is a mess.

Mr. Brandford: I went up there today and was a lot.....

Mr. Newell: That's not the one we are talking about now.

Mr. Vincent: Just a second. Mr. Newell let him finish and then you can answer.

Mr. Brandford: Tim was not there today so I couldn't talk to him directly and I know that one of the problems that we have had is we have no weed crew, also have had some changes in respect to Matt Phillips and the litter where they used to go and clean up things right away. We are in the process now of trying to get a crew that can do and do these kinds of things right now. As I understand it, this week sometime he is suppose to get all that cleaned up. It's on his schedule.

Mr. Vincent: The city is cleaning it up?

Mr. Brandford: Yes

Mr. Vincent: It looks like and evection.

Mr. Brandford: I told them I would be up there this afternoon; it is pretty obvious that backyard has all kinds of trash.

Mr. Vincent: So the city is going to clean it up and Mr. Newell will that take care of your problem?

Mr. Newell: Yea, there are other problems up there. There are a lot of things going on in the east end that no one even thinks about. You need to go up there on the weekend. On 146 Galigher Street that is the brick one that has a crack going down the wall. It has a hole in the thing where birds go in and out. It is just a lot of stuff going on. He said he could get by with it because he does all his work on the weekends. I told Bob Brandford this. He took all the banisters off the front and moved to the back. The garage has a big bow in it, no one has ever made him to tear that garage down but he can go around and build walls and tear down trees and bust people's fences up and no one can do anything with him.

I talked to Mr. Tilton and he said everyone should...we could pass a thousand laws and if you put something over your windows what they are doing behind them walls is strictly your business. If you remodel the inside of your house it is your business. If it ever falls down the city has the right to sue the landowner. With these old brick buildings it is going to happen just like what happened on Sharon Avenue. That guy was in there, pulled the walls out, it is going to collapse on two kids, that's what is going to happen.

Mr. Vincent: Mr. Newell, thank you, we appreciate it.

Mr. Brandford: Tim and I will be calling and we will be looking into all these things.

Mr. Vincent: We do need your address.

Mrs. Newell: We have a post office box. PO Box 1433, Zanesville, Ohio 43702

Mr. Baker: A few weeks ago I informed council of another gentleman in that same neighborhood that had been complaining, when we were talking about registering abandon houses, at least four houses in that general vicinity of that neighborhood that were being used for purposes that those residences were not meant to be used for as well as for more or less dumps for the neighborhood. It is to the point where this gentleman was ready to move out of the neighborhood if something wasn't done. That is a serious issue in that part of town and we do need to take a look at that. Another thing, what Mr. Newell brought up is the fact that the PNC Bank actually owns that piece of property on Galigher Street – is that the right one? So if that is the case is it a probability that Tim has been missed directing his solution to the problem by getting Mr. Newell in the middle of all this since he no longer owns the property?

Mr. Brandford: I think Mr. Newell has several different issues. In the short time that we talked there are things that I want to look at with respect to this 1067 Alice Street. There is also an issue with this property and one of the problems is who is the legal registered owner of these places. That's an issue. I am going to talk to Tim in detail about that area because there are three or four issues right there on that street.

Mr. Baker: If the bank owns the property the bank should take care of the property. We shouldn't be sending code violations to people who aren't directly responsible for the property.

Mr. Brandford: Well, I don't know enough about the details about what that thing is with Wells Fargo; I just know there was an issue on a complaint on whether it is actually registered to them as owner.

Mr. Baker: One way or another.....(Mr. Brandford and Mr. Baker talking at the same time.)

Mr. Brandford: That is a problem we have is when people live out-of-town people, banks or whatever you don't have any way of pinning them down, but we are working on that and I will talk to Tim about that.

Mr. Baker: Make sure you keep Mr. Newell informed.

Mr. Vincent: Mr. Baker will you follow up and then come back to us if there is anything else we need to do.

Thank you for coming. Would you like your photos back?

Mr. Newell: You can have them if you want.

MISCELLANEOUS AND UNFINISHED BUSINESS

Mayor Zwelling: Just two items to talk about. The 122nd Army Band Ohio Army National Guard will be putting on a free concert to the public at Secrest Auditorium a week from next Friday, which would be the 25th at 7:00 p.m. We expect the place to be filled up. This is a magnificent band and it will be a wonderful concert. Tickets are available at the Mayor's office and at the auditorium. While it is a free concert you should have a ticket because if there is an overflow crowd the ones that have tickets will get in first and the ones that don't have tickets and it fills up they won't get in. So tickets can be picked up at the Mayor's office and Secrest Auditorium.

The other item is the Household Hazardous Waste Collection Day is going to be August 7, 2010 from 9:00 a.m. to 1:00 p.m. at OUZ/Zane State Campus. Talking about paint, varnish, thinner, stripper solvents, fertilizer, mercury, used oil, antifreeze, batteries, engine fluids, and certain items will not be accepted such as smoke detectors, radioactive materials, infectious materials, and tires. We will put this on Channel 6 so the people can see it and know what they can dispose of that day. It is an annual program.

Mr. Vincent: It is very important to keep those things out of our sewage system and out of our ground, rivers, and we appreciate that.

Mr. Hillis: When Council has nothing else to go through and before you adjourn I need to speak to Council in an Executive Session about legal matter. Someone will need to make that motion.

Mr. Tarbert: I would like to make just a brief comment and I know we cannot speak directly on the tabling that happened earlier. I am a little concerned generally with motions that table obviously I haven't talked to Mr. Hutcheson about it, maybe he had his motives. It has been my understanding that the history with tabling motions have been when we are waiting to gather more information or waiting on something else to happen. Usually with tabling a motion we give a reason for a tabling and say "we are sending to committee" or "we are waiting for something else to happen". I would hate to think that we are using the tabling process to short circuit the democratic process. I am all for expediency but I hate to have us try and table something indefinitely instead of just allowing the people to speak and then just defeating it. I would hate to see us table things for ten years instead of just going through the process and voting it down if you want to vote it down. That is all I will say.

Mr. Hutcheson: I would like to add something to that. The purpose of me tabling this is so I could get more feedback from my constituents as well as from people in the neighborhood and other wards because it is their neighborhood too. I would like to hear more feedback and I only have a couple constituents that shared their input.

Mr. Vincent: With that, it has been table now. So that will give you an additional six weeks.

Mr. Hutcheson: I thought it was for two weeks.

Mr. Vincent: Yes, but I'm talking about the three readings. You have plenty of time.

Mr. Tilton moved to go into executive session to discuss legal issues, seconded by Mr. Baker.

R. C. to go into executive session

9 Ayes – 0 Nays

Motion carried

Mr. Tilton moved to end the executive session, seconded by Mr. Tarbert.

R. C. to end executive session

9 Ayes – 0 Nays

Motion carried.

Mr. Kilpatrick: I believe there was article in to news a couple weeks ago about the excavation on Marietta Street that we ran into some soil that were unstable.

Mr. Sims: That was on 8th Street.

Mr. Kilpatrick: How is that coming? Will we be getting a huge cost over-run because of that?

Mr. Sims: We temporarily stopped the project and we are looking at redesigning it to include storm sewer instead of sanitary to get the separation. We only have to go 7 feet deep instead of 15 feet deep so we think we will be able to curb it. There will be an overrun on it. I will have to discuss that with Mr. Hillis because there is language in the contract that I need clarified before we pay them anymore. Significant, I would say and this is before the engineer has a chance to negotiate this down it would be around \$40,000.00. Hopefully that is all we will have in this as long as we don't have a collapses at 7 or 8 feet and that is possible.

Mr. Kilpatrick: Thanks for the update.

Mr. Tilton moved to adjourn, seconded by Mr. Tarbert.

Motion carried

Meeting adjourned at 8:10 p.m.