

**CITY COUNCIL MEETING – MONDAY, MARCH 22, 2010**

The Council of the City of Zanesville met in regular session at 7:00 p.m., Monday, March 22, 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 of the Regular Meeting of March 8, 2010, seconded by Mr. Tarbert. Motion carried

**COMMUNICATIONS, REPORTS, AND RESOLUTIONS**

Communication from Howard Zwelling – Mayor – Subject: Board Appointment

**Muskingum County Board of Health** – I am hereby recommending appointment of Dr. Thomas Ruggles to the Muskingum Council Board of Health to replace Dr. Daniel Scheerer. Dr. Ruggles’ term will last for six years and expire March 31, 2016.

Mr. Zakany moved to receive and concur, seconded by Mr. Tarbert. Motion carried

Resolution No. 10-21 – Introduced by Council – A resolution authorizing entering into a settlement agreement to resolve pending litigation, and declaring an emergency.

Mr. Tilton moved to waive the three readings, seconded Mr. Roberts.  
R. C. to waive  
3 Ayes – 5 Nays Mrs. Gentry, Mrs. Norman, Mr. Kilpatrick,  
Mr. Hutcheson, Mr. Zakany  
1 Abstention - Mr. Tarbert  
Motion defeated.

Mr. Zakany moved for second reading, seconded by Mr. Baker.

Mr. Kilpatrick: Will the City of Zanesville end up owning this property?

Mr. Hillis: Yes, if the settlement goes through as it has been proposed to Council.

Mr. Kilpatrick: We would take it subject to a \$20,000 lien against it?

Mr. Hillis: Right.

Mr. Kilpatrick: Would that mean an obligation on the property, but the City would not sign a note for that \$20,000?

Mr. Hillis: Under this settlement that has been proposed the City would pay off the \$20,000, if the property is not sold in the next ten years, with no interest.

Mr. Zakany: The property remains in the City and what will we do just let it set there and not spend any money on it.

Mr. Hillis: It would sit there and then fall down and we would not own it.

Petition from Randy Case, 916 Vine Street:

Mr. Case: Now the City is going to take it back because the obligations that were made

when the property was sold were not met, but you're going to take it back with a \$20,000 lien. That is insane.

Mr. Roberts: The major thing we are looking at right now are legal costs we would incur taking this thing further into court, am I correct Mr. Hillis?

Mr. Hillis: Yes, that was one of the items of the settlement that I talked to Council about.

Mr. Kilpatrick: Is it an option for the City to walk away from our rights in this property?

Mr. Hillis: It is an option.

Mr. Kilpatrick: Are the City's rights or interests in that property superior to the lien that Century National already has on the property?

Mr. Hillis: That is the matter in dispute. We argue that we would get the property back without a lien and the bank and the note holder argued that if the City gets the property back it should be subject to the \$60,000 lien.

Mr. Kilpatrick: It may not be as simple as Mr. Case suggested.

Mr. Hillis: Right, at the last meeting, Mr. Phillips went through a lengthy presentation as to the different aspects of the case and that was one of them. Century National Bank has a \$60,000 lien against the property. Allegedly the \$60,000 was used to put in windows, tuck-point, put in gutters, and bring it up to code.

Mr. Zakany: Would that property be under the City's control that we could do with whatever we wanted to?

Mr. Hillis: The City is not spending any money upfront. The land owner signs it back over to the City. The bank would forgive \$40,000 of the mortgage and \$20,000 of the mortgage stays as a lien against the property. If the City sells the property in the next ten years, whatever we sell it for pays off that mortgage. If we do not sell it in the next ten years we pay off the \$20,000 left on the mortgage.

Mr. Vincent: It just comes down to if the City wants to spend legal fees or just settle this quickly and take care of it outright.

Mr. Hillis: This is not a guarantee victory here. There is no reported case in Ohio. We could get the property back and have the court say the whole \$60,000 mortgage is attached to the property.

Mr. Baker: Are you talking about if we settle?

Mr. Hillis: If we do not settle and go to court and we win and the court gives back the property and says City you own this property and we find under a theory of equity that the bank put up \$60,000 into it and we are going to let the bank's mortgage stand. Then the City owes the bank \$60,000 plus the attorney fees.

Mr. Baker: So there are a lot of different issues involved and I would assume that nobody is in a hurry to spend this sort of money, but if we do not we could be looking at some of the \$60,000 lien and legal fees.

Mr. Zakany: The City had other properties that they sold very reasonable and those properties are being done with, will they revert back to the City?

Mr. Hillis: This specific piece of property when it was sold in the 90's had a reverter clause inserted in it by the City.

Mrs. Gentry: The tax card value I have is \$14,000 for this property.

Mr. Vincent: What happens as far as this going 2<sup>nd</sup> reading?

Mr. Hillis: What Mr. Phillips was concerned about is if we are not going to settle it there is a lot of litigation work that needs to be done to be prepared for the trial. He wanted an indication as to what Council wants to do.

Mr. Vincent: And not waste additional money, and prep time for this is going to be a couple of weeks?

Mr. Hillis: He estimated about \$10,000. The trial date is April 13<sup>th</sup>. This is the last meeting in March and the first meeting in April is the 12<sup>th</sup>.

Mr. Baker: If this gets passed it makes more sense to pass it tonight. Is there any type of parliamentary procedure as far as waiving the readings?

Mr. Hillis: There has been a motion to waive readings and that failed. Council could make the motion again.

Mr. Baker moved to waive the three reading, seconded by Mr. Tilton.

Mr. Vincent: Any additional discussion before we vote?

Mr. Kilpatrick: I think there should be a settlement. I think it would be in the best interest of the City to walk away from their rights to this property and not spend any more money on it. I am expressing the reason I would oppose this, I would like to settle this, I do not like the idea of incurring a \$20,000 liability.

Mr. Tilton: You said that if we did not agree to this resolution you were going to proceed anyway because you already have money invested in it.

Mr. Hillis: Yes I do.

Mr. Tilton: So we are going to court.

Mr. Hillis: If you pass this resolution we will settle with these terms. If not I will go full speed ahead.

Mr. Baker: Remember this is not due for ten years and if you take the money we would be saving in not settling this case and investing it we could have some money to pay the debt. I do not like it either, but the alternative could be worse.

Mr. Roberts: This is directly beside a park. So if we take Mr. Zakany's advice to let it fall in, how would this impact that park?

Mr. Zakany: With the bank having \$60,000 lien on this property, can we pass it for \$20,000? How is the bank going to get their money back?

Mr. Hillis: This is the settlement that was proposed and the bank approved it.

Mr. Vincent: Typically loans go with the property. So we could win this settlement or win in court, get the property back and get the \$60,000 lien against the property with it.

Mr. Hillis: That is potential.

Mrs. Gentry: Before you started mediation and spent \$10,000 would it have been wiser to come to Council then and ask us if we want to spend that first \$10,000?

Mr. Hillis: I do not understand what the question is about. I do not think the City spent \$10,000 on mediation. A law suite was filed. The court ordered the parties to go into mediation to resolve the lawsuit without taking up court time with a trial. The parties participated in the mediation and this is what came about.



\$140,000 and increase the Other Disbursements Line Item 101.7951.53434 by like amount.

Mr. Tarbert: I will make that my motion.

Seconded by Mr. Tilton.

Mr. Vincent: Mr. Hillis, how are we doing here?

Mr. Hillis: As Dale said it takes four lines to be amended to accomplish that and I think that what Mr. Tarbert's intention was and that is what this motion is.

Motion carried.

We are now at Ordinance No. 10-22 As Amended:

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

R. C. to waive

9 Ayes – 0 Nays

Motion carried.

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

Mr. Roberts: I would like to bring up that I did propose some changes to the budget, but I believe it might be a bit too little too late. Maybe we will take a look at this next year.

Mr. Vincent: Thank you for your work on that, I know you spent a lot of time on it.

Mayor Zwelling: I told Dale all along that I wanted to present a budget to the Budget Committee to recommend to City Council and that City Council could pass. I thought we left that committee meeting thinking it was six of one and half dozen of the other as to which fund that money was in because fire chief in order to spend it would have to come to Council for approval.

Mr. Tarbert: We took a vote and voted to move it to the general fund.

Mayor Zwelling: I was not trying to undermine the committee. I went along with the budget committee.

Mr. Tarbert: We appreciate your help and cooperation.

Petition from Randy Case – 916 Vine Street:

Mr. Case: I was happy that the Budget Committee and the administration were able to work together. I would like to see this continue on throughout the year especially after the announcement of Matting's laying off 250 employees. I spoke to the Treasurer and it is not going to be an immediate effect on the City revenues, but the trickle down affect of 250 people loosing their jobs. I hope the Budget Committee and the administration will continue to monitor this budget.

Mr. Vincent: This group will continue to meet and I want to thank the Budget Committee, administration, elected officials, and Mr. Wolfe. A lot of work went into this.

R. C. for passage

9 Ayes – 0 Nays

Motion carried.

Ordinance No. 10-23 – Introduced by Council – Authorizing the proper City official to adjust the payout of accrued vacation and compensatory time for a former Clerk of Council, and declaring an emergency.

Mr. Zakany moved to waive, seconded by Mr. Tarbert.

R. C. to waive

9 Ayes – 0 Nays

Motion carried.

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

Mr. Vincent: I wish to thank Joan Ziemer for being willing to stay the additional two months to help with training the new clerk.

R. C. for passage  
9 Ayes – 0 Nays

Motion carried

Ordinance No. 10-24 – Introduced by Council – Amending Ordinance No. 97-127, as amended, which authorized a maximum schedule of positions, and authorizing payment of sick leave reciprocity benefits.

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

Mr. Zakany: The part time technician is that a retired fireman?

Mr. Brandford: This is the traffic signal supervisor Fred Buck. He has been working in a full time position and we need to make certain it is official.

Mr. Roberts: Mr. Brandford, was this position part time?

Mr. Brandford: I have his job description and it says he is full time. The ordinance states the position is part time.

Mr. Roberts: All I was asking is that some point in time this position was part time. Did Mr. Buck perform part time work?

Mr. Hillis: I can help you with that. When Mr. Buck was a full time fireman, he was also in charge of the traffic signal division as a part time employee. He retired from the firefighter's position and kept working the traffic signal supervisor's job as a full time employee. Unfortunately it was still on the books as a part time position. So he has worked full time since he retired from the fire department.

Mr. Brandford: He continued working because he worked as a firefighter and he spent a lot of hours working for traffic signal.

Motion carried.

Ordinance No. 10-25 – Introduced by Council – Authorizing the proper City official to prepare and submit a Community Housing Improvement Program Grant (CHIP) application, and declaring an emergency.

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

R. C. to waive  
9 Ayes – 0 Nays

Motion carried.

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

R. C. for passage  
9 Ayes – 0 Nays

Motion carried.

Ordinance No. 10-26 – Introduced by Council – An ordinance authorizing the City Auditor to pay an invoice of the Community Development Department, and declaring an emergency.

Mr. Tilton move to waive, seconded By Mr. Tarbert.

R. C. to waive  
9 Ayes – 0 Nays

Motion carried.

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

Mr. Zakany: I see \$12,000 for razing a property. Do the owners of the property pay to have it torn down?

Mr. Hillis: They are responsible for it. We are putting lien on the property and we also have the right to pursue them in collections.

Mr. Zakany: I few years ago that was the case.

Mr. Hillis: The Code Enforcement Department request the title searches, I do title searches, I tell them who owns the property, and they are certainly free to ask us to do anything for them to collect this.

Mr. Kilpatrick: I have one for the auditor. Is this just for one property or is this multiple properties?

Mrs. Moyer: It is grant money; she just forgot to request a purchase order. To my knowledge we always put a lien on the property so if it is sold we would get our money.

R. C. for passage  
9 Ayes – 0 Nays

Motion carried.

Ordinance No. 10-27- Introduced by Council – An ordinance authorizing the proper City official to advertise for bids and enter into contract(s) for the 2010 Citywide Overlays, and declaring an emergency.

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

R. C. to waive  
9 Ayes – 0 Nays

Motion carried.

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

Mr. Zakany: Has the Service Director indicated any particular streets?

Mr. Sims: I could provide you with a list of the streets that was applied for last winter. I will get you the list.

Mr. Baker: These are not the funds that are divided up between the six wards, is it?

Mr. Sims: Yes. This is just our yearly overall paving program. This is Ohio Public Works Issue I money.

R. C. for passage  
9 Ayes – 0 Nays

Motion carried.

## **ORDINANCES FOR ACTION**

Ordinance No. 10-19 – Introduced by Council – An ordinance authorizing the proper City official to enter into a lease with AK Steel Company.

Mr. Tilton moved for second reading, seconded Mr. Baker

Motion carried.

Ordinance No. 10-20 – Introduced by Council – An ordinance amending Chapter 1347 of the Codified Ordinances of Zanesville.

Mr. Roberts moved for second reading, seconded Mr. Tarbert.

Mr. Vincent: Mr. Sims, we're okay going three readings with this, correct?

Mr. Sims: Yes.

Motion carried

Ordinance No. 10-16 – Introduced by Council – An ordinance authorizing the proper City official to sell unneeded equipment from the Wastewater Treatment Plant to the entity submitting the best and highest quote for purchase.

Mr. Zakany moved for third reading and passage, seconded by Mr. Tarbert.

R. C. for passage  
9 Ayes – 0 Nays

Motion carried.

Ordinance No. 09-66 (A) – Introduced by Council – Authorizing the proper City official to expend funds on improvement to Gant Municipal Stadium, to seek bids and enter into contracts where required.

Mr. Tilton moved for third reading, seconded by Mr. Tarbert.

Mr. Tarbert: I think I know what is going to happen to the ordinance and I was one the biggest proponents for this ordinance, but now is not the time to spend \$185,000 on the stadium lighting. I would encourage the administration and the Old Timers' to come back to us as soon as permissible, but this is not the time to pass this.

Mr. Roberts: I encourage looking into grant money for this, I think that might make this a little bit more palpable, but \$185,000 in the current budgetary times, I cannot see passing this ordinance.

Mr. Baker: Mayor, was there grant money lined up at one time to pay for this?

Mayor Zwelling: Council was ready to pass this some months ago. Mr. Sims has applied for grants and we worked through Musko Lighting. There were no grants given for lighting this year. This was to be rolled over into bonds and it was not coming out of this budget at any time.

Mr. Zakany: They are what 40 years old? Are they repairable?

Mr. Sims: We are more concerned about the towers and how they are fixed to the footers. We had an estimate of \$78,000 to anchor the towers.

Mayor Zwelling: It is a safety thing for our employees to go up on the towers and make repairs. It is a safety thing for the players because of the poor lighting.

Mr. Zakany: With this other thing that we borrowed, could that be added to it?

Mr. Raines: It can, if Council passed this it would be added to the Sixth Street and State Street money. Then it would be put into a bond.

Mr. Tarbert: What would our yearly payments be on that bond?

Mr. Raines: It would be \$15,000 per year.

Mr. Roberts: When we see income tax dropping, we see other companies going out; I do not think this is really a good time to take on more debt.

Petition from Randy Case – 916 Vine Street

Mr. Case: The City is like a corporation. If you are looking at fewer revenues you do not go and max out your credit cards. The City is looking at getting fewer revenues, we have seen it last year and we are looking at it this year, we do not know what is going to happen next year because the City does not forecast budgets. It is all a guess. The \$15,000 doesn't sound like much, but that could be part of someone's salary. The mayor can say that is it different than the family budget, but it is not a whole lot different. If the City does not have the revenues, it should not take on anymore debt unless we have to.

R. C. for passage  
0 Ayes – 9 Nays

Motion defeated

**PRIVATE PETITIONS AND COMMUNICATIONS:**

Petition from Phil Dodson – 2410 Sherwood Hills

I am a representative of the City league softball in Zanesville. I have not had anyone come to me yet and tell me the enjoyed the fees being raised \$600.00 from \$395.00 last year. I talked to Mr. Sims and asked for a cost analysis of the City softball. He had someone provide it.

Mr. Tarbert: Do we have a Parks and Recreation Committee?

Mr. Roberts: It falls under Public Service.

Mr. Vincent: Yes, which you chair.

Mr. Tarbert: I was going to suggest you send this to the parks and recreation committee and they can meet with Mr. Dodson and Mr. Sims to try and work out some sort of compromise. I think this needs to go the either a work session of Council or a committee meeting would be my recommendation.

Mr. Vincent: I think this can be handled in committee. Would you like to accept that?

Mr. Tarbert: If it does not fall under any other committee, I would be happy to accept that.

Mr. Sims: I do not know what kind of time lines they are under as far as how many teams have signed up or how pressing this may become.

Mr. Tarbert: I can have a meeting this week.

Mr. Sims: We may have to.

Mr. Tarbert: What we need to look at is our expenses for the last five years. We need to look at the average per year. Do we have those numbers?

Mr. Sims: It would take more time to research. We can go back three years and see what it is. The increase was based on recommendation from the administration and the budget director that in order to be viable we need to increase fees by 50%. We looked at just raising the entry fee a little and then doing a player fee.

Mr. Tarbert: We are barely raising the minimum fee, but now we are going to charge the players eleven dollars. How many players do you have?

Mr. Dodson: Fifteen

Mr. Tarbert: You are essentially raising the fee. They have to have players on the field and you are charging each player \$.50 per game. You might as well raise the entry fee and not charge the players.

Mr. Sims: I think all of Council has made the comment that we need to increase our revenues and decrease our expenses.

Mr. Tarbert: I am talking about economic development; I am not talking about charging players \$.50 to play softball. I think we need to take a look at this, send it to committee, look at a three year average and come up with something fair. I am going to have the same argument and I am not taking a pro softball stand. We need to look at the economics and numbers of what this has cost us the last three years.

Mrs. Moyer: I asked around about how many umpires they use and most use only one umpire per game.

Mr. Dodson: We offered to only have one umpire per game and that was a savings of \$14,000.00 and they said that they could not do that. Everywhere has only one umpire. The commissioner was told it was not an option and it is too late.

Petition from Dan Quinn – 802 Putnam Avenue

Mr. Quinn: I want to know why when traffic lights are removed it does not come before Council.

Mr. Hillis: I spoke with the Traffic Signal Supervisor today. The City has only removed one or two traffic signals in the last several years.

Mr. Quinn: I know there are public meetings and the public is notified as to what is going to happen in their neighborhood. The Traffic Committee is a closed door meeting and nobody is notified. The citizens of Zanesville have a right to know when something in their neighborhood is going to happen. I would appreciate it if Council could look into that.

Mr. Brandford: The Mayor has appointed Mr. Hutcheson to the committee and he will be representing your neighborhood with the Traffic Committee and he will be at all our meetings.

Mr. Quinn: You had on February 8<sup>th</sup> a traffic issue on Madison Street that was brought before Council. You removed the traffic light at Madison Street and Putnam Avenue; you did not bring that before Council. Why?

Mr. Roberts: Mr. Brandford, the signal is on a state route, was that O.D.O.T.'s decision to take that down? Was it the State trying to take it out or was it the City?

Mr. Brandford: We have 74 signalize intersections in the City. O.D.O.T. wanted us to look at this traffic signal and make a determination as to whether or not it is justified for what they call a warrant.

Mr. Quinn: Then it falls back on the City to make a decision to remove it. I appreciated it if Council would bring those decisions in front of Council.

#### **MISCELLANEOUS AND UNFINISHED BUSINESS:**

Petition from Paul Dubeck – City Treasurer – payroll analysis to keep Council informed as to how we are doing in payroll.

Mr. Dubeck: This is strictly informational. We did a payroll analysis of the first six pays of the year. We have spent \$101,000 in overtime already. We also have comp time liability increases that I will refer to as “deferred overtime” because we will still have to pay in the end; 25% of the overtime spent goes to the fire department; 24% goes to the police department; sewer and water funds (they represent 19% of the employees of the City) used 32% of the overtime dollars.

As far as deferred compensation goes the fire department has increased their dollar liability \$2,300 since the first of the year. The police department has dropped their comp time liability by from \$91,000 down to \$82,000. Their comp time is coming down, their overtime is realistic, when I look at the fact that they have spent a \$1,000 less than the fire department, but they have almost 20 more employees.

I am not going to talk about the Street Department and the big surge in comp time because they did an excellent job this winter taking care of all the snow.

The City has a liability of \$253,687 in comp time. This means if everyone decided to take the money we own them we would have to come up with that amount. The first of the year was only \$248,000.

So the overtime may be down, but the 'deferred overtime' is on the rise.

Mr. Vincent: With these departments the comp time they take time off paid, it is not like they are cashing it in for additional funds.

Mr. Dubeck: No, the problem is when someone takes comp time they work eight hours and the get twelve hours comp time so then we have to pay that twelve hours when they are not there and bring someone in to cover for them. In some cases we have to bring someone in on overtime to cover.

Mr. Vincent: But not all areas are covered. We do not cover every vacation. Correct?

Mr. Dubeck: You need to talk to the people in the police and fire departments about that. If you look at the size of the department you cannot expect a department with only four people that have comp time, not to try and find someone to fill in. They cannot afford to have two people off. My concern is that in six months when we look at comp time and everyone is going to be maxed out with comp time and they will have to start taking time off and they will have to be covered. That is not dollars spent in the budget today, but it is going to be dollars spent in the budget.

Mr. Zakany: I appreciate this report.

Mr. Dubeck: This report will be quarterly.

Mayor Zwelling: We had two great events at Secrest over the weekend. Friday and Saturday nights Zanie Follies. The Quarterback Club is having their stag fund raiser tonight in the basement of Secrest. The April Restoration will be in for two days, April 9<sup>th</sup> and 10<sup>th</sup>. Zanesville Blue Devils have made it to the state tournament. Code enforcement committee chaired by Mr. Tilton have reviewed business properties and have recommended sending letters to these businesses asking them to clean up their property.

Mr. Vincent: Mr. Raines, do you have anything on the Bosco Fund?

Mr. Raines: No.

Mrs. Moyer: I have ready talked to Mr. Case about it.

Mr. Vincent: Mr. Case are you satisfied?

Mr. Case: Yes.

Mr. Tilton moved to adjourn, second by Mr. Hutcheson. Motion carried.

Meeting adjourned 8:44 pm.