



Minutes of the Regular City Council Meeting

Held on Monday, March 5, 2012

7:30 p.m.

1. COUNCIL BUSINESS

(a) Call Regular City Council Meeting to Order and Roll Call – 7:30 p.m.

A regular meeting of the Oberlin City Council was held on March 5, 2012 in the Council Chambers of the Oberlin City Hall, located at 85 S. Main Street Oberlin, Ohio. The meeting was called to order at 7:34 p.m., by Presiding Officer Ronnie Rimbart. Roll call was taken as follow:

Council Members:	Present	Absent
Charles Peterson	<input type="checkbox"/>	<input type="checkbox"/>
Bryan Burgess	<input type="checkbox"/>	<input type="checkbox"/>
Sharon Soucy	<input type="checkbox"/>	<input type="checkbox"/>
Elizabeth Meadows	<input type="checkbox"/>	<input type="checkbox"/>
Scott Broadwell	<input type="checkbox"/>	<input type="checkbox"/>
Aaron Mucciolo	<input type="checkbox"/>	<input type="checkbox"/>
Ronnie Rimbart	<input type="checkbox"/>	<input type="checkbox"/>
Appointees:		
Belinda Anderson, Clerk of Council	<input type="checkbox"/>	<input type="checkbox"/>
Eric Severs, Law Director	<input type="checkbox"/>	<input type="checkbox"/>
Eric Norenberg, City Manager	<input type="checkbox"/>	<input type="checkbox"/>
Sal Talarico, Finance Director	<input type="checkbox"/>	<input type="checkbox"/>

(b) Approval of Minutes – Public Hearing – February 21, 2012.

Mucciolo noted that the word “or” should be inserted between the two Ohio Revised Code (ORC) requirements listed to qualify for Agriculture District designation on the bottom of page 1 of the minutes.

Motion to approve the minutes of the February 21, 2012 public hearing as amended was moved by Broadwell, seconded by Meadows.

Roll Call: 5 Ayes

0 Nays

Motion Carried

Both Councilmember's Peterson and Burgess re-entered Council Chambers at this time.

Ashenhurst noted that the information that Council just voted on was not provided for the public, and he hoped that they would be next year.

2. ANY CONCERNS THAT ARE NOT ON THE AGENDA MAY BE BROUGHT TO THE ATTENTION OF COUNCIL AT THIS TIME.

Flood Update

John Whitman, 46802 Route 21, reiterated his concerns addressed at the November 21, 2012 Regular City Council meeting regarding the flooding which continues to take place on his land. He remarked that on February 24, 2012 he received an email from Steve Dupee which stated that the flooding issues could not be resolved due to the reluctance of the property owner to the east. Furthermore Whitman alleged that the City was in violation of City Ordinance No. 01-80 AC CMS which restricts causing a barrier to be built that diverts flood water and prohibits this barrier from increasing the water level by more than 1ft. It was noted that Wetland A was now currently at 3ft. He asked that the City hold itself accountable for its noncompliance to the City Code and take immediate action to abate this nuisance as an emergency measure. Whitman remarked that currently barriers were in place that diverted flood water to the north, south and west of the City property which resides on the west side of the right-of-way. He felt that this water needed to flow to the east as nature intended and the only way for this to happen was by installing tiles in Wetland A. This could be done at no added cost to the City since funds from the Ramsey project, which came in under budget, could be used to correct this problem. (A copy of the prepared statement is on file at the Clerk's office).

Burgess asked what the adjacent property owner found to be objectionable. Dupee remarked that there were two property owners whose land they wanted the City's wetlands consultant to analyze. The first owner, who consented, was the property owner to the west. They wanted to determine if the size of the ponding area to the west of the Ramsey was larger than it was in 2006. The property owner to the east found it objectionable that the City would allow water to flow from Wetland A into a channel that would carry water through his property all the way out to Route 58, via the installation of a new tile. Burgess asked if the property owner's property was in Pittsfield Township or in Oberlin. Whitman remarked that it was in Oberlin. Dupee remarked that he would have to check on it but would send an email to Mr. Burgess with that update.

Norenberg remarked that the City has been diligent in trying to resolve this issue. They were not trying to stonewall Mr. Whitman but they were trying to look at other alternatives that can resolve this issue legally.

President Rimbart asked that the lines of communication be kept open with Mr. Whitman. Norenberg remarked that regular follow ups had been made.

Whitman advised that he would be satisfied if the City could just get the Army Corp of Engineers and the Ohio Environmental Protection Agency out there to do an evaluation and wetlands delineation of the area and confirm that this land is considered to be wetlands. Rimbart asked the City Manager to consider that request for the future as well.

Oberlin Main Street Bed Tax Committee

Norenberg remarked that the Oberlin Main Street Chamber is requesting that two members of Council to join its Bed Tax committee.

Motion to appoint Meadows and Mucciolo to the Oberlin Main Street Chambers Bed Tax Committee was moved by Peterson and seconded by Broadwell.

Roll Call: 7 Ayes

0 Nays

Motion Carried

3. OLD BUSINESS:

(A). ORDINANCE No. 12-09 AC CMS: An Ordinance Authorizing the City Manager to Enter into a Contract with Sunnyside Chevrolet of Elyria, Ohio, for the Purchase of Two 2012 Chevrolet Tahoes for the Oberlin Police Department and Declaring an Emergency. (2nd)(E)

The clerk read by number and title only.

Motion for passage on second reading was moved by Soucy, seconded by Meadows.

City Manager Norenberg opened his remarks with a recap of the previous discussion. Following opening remarks he turned the discussion over to Police Chief Tom Miller.

Miller remarked that during the last budget process he explained the need for two new vehicles: one vehicle was destroyed in the flood and an older vehicle had over 90,000 miles on it. He noted that when he conducted his research it was established at that time that the Tahoe was a good selection. During the process he was asked to look at a hybrid vehicle that was currently being used in some western states. It was established at that time that the Tahoe was the better option. As of the last meeting it was brought to his attention that there is some reluctance to the purchase of an SUV altogether and he has been asked to compile a report of all of the police vehicles available. Chief Miller purported that the Tahoe was still a good option that offered much more versatility, storage space and visibility. However if Council felt that an SUV was not appropriate he would be willing to entertain other ideas.

Soucy remarked that Council had demonstrated its continued interest in protecting the City's budget. She appreciated the time that Mr. Burgess spent doing research and in helping Council think this through. She noted that the City had purchased hybrids in the past and they have some as part of the City fleet at this time. However gas mileage wasn't the only issue to consider when purchasing a police vehicle. In speaking to a number of residents in the community other factors to consider include, comfort, confidence of the officers in the vehicle they are driving, the safety of the citizens and officers. She felt that in spite of the fact that the Tahoe may not be exceptional in terms of gas mileage other factors should be considered as well like storage, visibility, the electrical configuration, the amount of space in the vehicle, the officers comfort and the amount of research that has been done. She felt that in a situation like this the tendency is to always yield to the professionalism of the City Staff being impacted, and while the mileage was important the general functionality of the proposed vehicles took precedence.

Burgess said that Chief Miller brought up a good point in his memo, that the Ford Interceptor that replaced the Crown Victoria was unproven. He can see where it would cause one to hesitate to recommend that it be put over the purchase of a more established vehicle that has been on the road a long time. On the other hand the Chief did make the concession that he was willing to move forward with the purchase of a Tahoe and with the new Ford Interceptor. The Ford Interceptor wasn't included in the new Michigan test because it didn't exist at the time. It hadn't been road tested because Ford wanted to make sure that before they released the vehicle, it would meet their specification. Burgess stated that if they must purchase an SUV, he appreciated the Chief's willingness to also purchase the new Interceptor sedan.

Broadwell asked the Chief if his first choice would be to purchase two Tahoes? Chief Miller concurred and added that the Ford Interceptor had been included in the Michigan test. The only thing that hadn't been included was the gas mileage because they didn't have a track record for the gas mileage. However everything else was tested.

Broadwell noted that with this being a safety – service vehicle he wasn't comfortable with going with the compromise. He preferred to go with the Chief's preference for many of the reasons previously addressed by the Vice President Soucy. Broadwell noted that there wouldn't be a huge savings with gas mileage, maybe a \$1,000 tops.

Peterson asked if both SUVs would be used for patrol. The Chief concurred. Peterson noted that this was more information than they had previously, and then he had begrudgingly accepted the purchase of the two Tahoes. However having had the new information presented for this meeting he would be willing to support one Tahoe and one Interceptor.

Meadows stated that based on the memo from the Chief the Tahoes had been manufactured for police use. She remarked that she would feel more comfortable with the police having a vehicle that had been road tested and proven by other police departments and at this point if this is what the police department is comfortable with then she would be willing to go with the Chief's judgment and go with his recommendation.

Mucciolo said he didn't want to micro-manage but the Chief's judgment is indicating that a Tahoe and an Interceptor would work. Mucciolo asked what did the Tahoe offer that the existing sedan models didn't offer? Miller advised that the advantage of the SUV would include the storage availability, comfort, visibility and safety.

Soucy asked if they were under any kind of time restraint to get this done. Chief Miller remarked that the deadline would be prior to the next meeting, so if they want to take advantage of the 2012 Tahoes, it would need to pass on emergency at this time.

Rimbert asked when the next cruiser would be rotated out of the fleet. Miller noted that they never replaced the cruiser that got flooded last year. Miller noted that traditionally they alternated the rotation of the vehicles every year from a one car to a two car year. This year would normally be a two car year but really they are only adding one new vehicle to the fleet because one was destroyed.

Ashenhurst said the Tahoe is also about \$2,600 more in the purchase as well as the gas mileage savings so it isn't just \$1,000 in annual operations cost, it is also 10% more to purchase it. He further noted that the Chief's recommendation in writing is one of each, so when a Councilmember says I want to go with the Chief's recommendation then the recommendation before Council, in writing, is to do one of each. One for the purpose stated and the purchase of one new Ford Interceptor sedan so that they can properly evaluate this vehicle to see if this is how they should proceed in the future. It seemed to him that one Tahoe would be sufficient enough to handle the immediate need of storage in the vehicles.

Meadows stated that the initial recommendation which was at the last meeting was for two Tahoes. The memo before Council tonight is a compromise. She advised that when she said she would go with the Chief's judgment she was referring to the original request for two Tahoes, because the research had been done and there was a track record. She remarked that she didn't know why they would want to get a vehicle that they would need to test when they can get two vehicles that have a proven track record.

Peterson asked the Chief if he would ever make a recommendation that he wasn't comfortable making? Miller remarked that he wasn't at the last Council meeting and he didn't understand Council's concerns. It was his understanding based on the comments from Council that they may not get any Tahoes so he worked on a

Motion for passage on first reading was moved by Mucciolo, seconded by Meadows.

The City Manager introduced Oberlin Light Director Steve Dupee and Mike Mizell, Legal Counsel for EDI.

Steve Dupee provided an overview of the proposed amendment to the interconnection agreement between Bio Energy, LLC and OMLPS related to interconnection of additional landfill gas generating facilities to the City's 69kV sub-transmission system. That agreement had three main purposes:

1. To design, construct and maintain the interconnection facilities.
2. To provide for a power delivery fee, and
3. To provide for an operation and maintenance fee for maintaining the interconnection facilities.

Dupee noted that EDI wanted to install an additional 19.2 megawatts of generation capacity which is the reason for this amendment. Highlights of the proposed amendments are as follows:

- Several terms in the original interconnection agreement required revision.
- Section 2.2 – Power Delivery required revision.

The revision permits the utility to incorporate a new power delivery fee into the agreement based on the data from a recent cost of service analysis, calculated by Utility Financial Solutions of Holland, Michigan, the city's utility consultants.

- Section 3.1– Interconnection Facility Design.

A new section has been added to reflect OMLPS' obligation for the design and construction of the additional interconnection facilities.

- Section 3.5 – Payment by Generator.

Currently EDI pays an operation, maintenance and repair fee of \$10,000 annually to the utility as compensation for maintaining and keeping in good repair, the interconnection facilities associated with landfill gas generation. UFS did a cost of service study associated with this service and recommended that the fee increase to \$31,310 on an annual basis.

As a result the Utilities total fees received from EDI would go from \$60,000 to \$140,310.

- Section 4.3 – Cooperation of OMLPS and Generator.

Language was added to the agreement that required EDI to make reasonable efforts to notify OMLPS when landfill gas generation must be taken out of service for maintenance or emergency situation.

- Section 4.4 – Rights of Access.

Removed language granting EDI access to the utility's Power Station Isolating Switch (PSI-Switch). As a result of the generation expansion project, ownership of the current PSI-Switch will be transferred to EDI. EDI will install two new breakers that will isolate the generation facilities from the OMLPS system.

- Section 11.1–Method of Delivery.

The address for notifications to EDI has been updated to new location in Nashville, Tennessee.

Norenberg introduced Ordinance 12-14 AC CMS to the Council and turned the discussion over to Fire Chief Dennis Kirin.

Chief Kirin reviewed the revision process conducted by the State Fire Marshall and the Department of Commerce. He remarked that periodically a review process is held to update the Ohio Fire Code (OFC) where they take an International Fire Code (IFC) and revise it to adapt to the Ohio Revised Code. This process is done every 3-5 years.

Burgess asked what other community in Ohio adopts the International Fire Code. Chief Kirin advised that he didn't know offhand. Burgess remarked that he would like to know why the Ohio Fire Code wasn't enough for the City and would be interested in knowing what other communities have adopted the International Fire Code. Kirin remarked that it is used by the City because the Ohio Fire Code is anywhere from three to five years behind the International Fire Code.

Burgess read an excerpt from the Ohio Fire Code into the record which indicated that the Ohio Fire Code would supersede any other Fire Code that is adopted locally.

Law Director Severs remarked that the Ohio Fire Code is effective throughout the State. If additional codes were adopted they would be effective as well as long as they didn't conflict with the Ohio Fire Code. Kirin advised that there was also a "conflicting codes paragraph" that says that the more stringent of the two Codes would prevail. Kirin remarked that Ohio Revised Code's provision says three things:

1. Any political subdivisions can adopt the Ohio Fire Code.
2. No one can make any variations on the Code. The only person who can do that is the Ohio Fire Marshal, except if done by legislation.
3. The Ohio Fire Code is enforceable throughout the State regardless of whether or not a Fire Code has been adopted.

Kirin noted that the Ohio Fire Code has certain provisions that are tedious and time consuming and enforcement issues in areas like New Russia Township (where the OFC prevails) would have to be done in Columbus, Ohio.

Burgess asked if adopting the International Fire Code made his job easier.

Kirin concurred and further remarked that the International Fire Code was the mechanism they used to establish the permit provision which allows for temporary homeless shelters. He remarked that they would not be able to do that if they strictly used the Ohio Fire Code.

Burgess said there was a copy for the Ohio Fire Code on the internet but he couldn't find a copy of the International Fire Code. Kirin remarked that the information is proprietary.

Burgess stated that it would make it a little difficult for the residents to comply, if they couldn't have access to the IFC. Kirin noted that it was called doing business. Burgess remarked that if they were going to enforce such rules they would need to be made available to the residents. Kirin noted that there were current copies available in his office as well as in the Building Officials office. The Clerk noted that she also had a copy of the Code in her office but didn't believe it was the most current edition.

Peterson questioned why the City would be adopting the Ohio Fire Code if they followed the International Fire Code. Chief Kirin noted that they actually adopted both codes which is also known as the Oberlin Fire Code.

Mucciolo questioned why the internet and other electronic media hadn't been included in Section 1505.05 (e) which permits the fires by written permit for certain commercial film making or video production activities for motion pictures and televisions. Kirin remarked that the information here is what is suggested by the Ohio EPA.

Ashenhurst explained that silviculture was the porous term used to apply to horticulture or gardens.

Motion to suspend the rules requiring three readings and to elevate the ordinance to an emergency was moved by Burgess and seconded by Mucciolo.

Roll Call: 6 Ayes 0 Nays Motion Carried
(1st, Suspension of Rules/ Emergency)

Roll Call: 6 Ayes 0 Nays Motion Carried
(1st, Final)

(D). ORDINANCE No. 12-16 AC CMS: An Ordinance Approving an Agreement for Hazardous Materials and Technical Rescue Response in Lorain County and Declaring an Emergency. (1st)(E)

Broadwell moved to have the ordinance read by number, title and substantive portions only, seconded by Soucy.

Roll Call: 6 Ayes 0 Nays Motion Carried

The Clerk read as directed.

Motion for passage on first reading was moved by Mucciolo, seconded by Soucy.

Norenberg noted that this ordinance would ratify the continued participation in the Hazardous Materials and Technical Rescue Response contract with our fellow departments in Lorain County. Chief Kirin provided a brief synopsis on the origin of the agreement which began in the early 90's. He further noted that the annual cost for this service would be \$2071.50, representing a \$22.75 increase from the previous contract.

Foregoing discussion, a motion to suspend the rules requiring three readings and to elevate the ordinance to an emergency was moved by Peterson and seconded by Broadwell.

Roll Call: 6 Ayes 0 Nays Motion Carried
(1st, Suspension of Rules/ Emergency)

Roll Call: 6 Ayes 0 Nays Motion Carried
(1st, Final)

Vice President Soucy exited Council Chambers at this time.

5. OTHER NEW BUSINESS: None

6. COUNCIL COMMUNICATIONS:

(A). Referrals

(B). Advocacy

(C). Correspondence

(D). Reports

- Peterson congratulated the organizers of the annual Dr. Seuss event hosted by the Oberlin Public Library.

- Burgess told members of the public to remember to vote and reminded them that the Lorain County Ambulance District needed their support.

7. CITY MANAGER'S REPORT:

- Announced that Oberlin had been selected as one of five Best Intergenerational Community Awards.
- Received quotes and plans to replace the lighting above the Council members in Council Chambers.
- ODOT will be starting work on the Park Street Bridge replacement project.

8. FINANCE DIRECTOR'S REPORT:

The Finance Director announced that a Financial Update for 2011 would be provided for Council at the next meeting.

9. PUBLIC PARTICIPATION:

Ashenhurst announced that the Lorain County Commissioners have moved their meetings to 11 a.m. for the month of February and March to get more people involved.

10. ADJOURNMENT:

Rimbart announced that it was nice to have Vice President Soucy back with Council tonight. Being that there was no further business to come before Council the meeting adjourned at 9:32 p.m.

Attest:

BELINDA B. ANDERSON, CMC
CLERK OF COUNCIL

RONNIE J. RIMBERT
PRESIDENT OF COUNCIL

APPROVED: 4/02/2012

POSTED: 4/03/2012