

(c) Approval of Minutes – Regular City Council Meeting – September 17, 2012.

Motion to approve the minutes of the Regular City Council Meeting of September 17, 2012 as presented was moved by Mucciolo, seconded by Broadwell.

Roll Call: 7 Ayes 0 Nays Motion Carried

(d) Proclamation – Public Power Week.

A proclamation was read by Elizabeth Meadows in recognition of Public Power Week. The proclamation was presented to Doug McMillan, Energy Services and Sustainability Initiatives Manager for OMLPS.

PROCLAMATION
PUBLIC POWER WEEK

WHEREAS, we, the citizens of Oberlin, place high value on local control over community services and therefore have chosen to operate a community-owned, locally controlled, not-for-profit electric utility and, as consumers and owners of our electric utility, have a direct say in utility operations and policies; and

WHEREAS, OMLPS provides our homes, businesses, farms, social service, and local government agencies with reliable, efficient, and cost-effective electricity employing sound business practices designed to ensure the best possible service at not-for-profit rates; and

WHEREAS, OMLPS is a valuable community asset that contributes substantially to the well-being of local citizens through energy efficiency, customer service, environmental protection, economic development, and safety awareness; and

WHEREAS, OMLPS is a dependable and trustworthy institution whose local operation provides many consumer protections and continues to make our community a better place in which to live and work, as well as contributes to protecting the global environment; and

NOW, THEREFORE BE IT RESOLVED: that OMLPS will continue to work to bring safe, reliable electricity to community homes and businesses just as it has since 1934, the year when the utility was created to serve all the citizens of Oberlin; and

BE IT FURTHER RESOLVED: that the week of October 7-13 be designated the 26th annual Public Power Week in order to honor OMLPS for its contributions to the community and to make its consumer-owners, policy makers, and employees more aware of its contributions to their well-being and how it makes their lives powerful; and

BE IT FURTHER RESOLVED: that our community joins hands with more than 2,000 other public power systems in the United States in this celebration of public power and recognition that OMLPS is good for consumers, business, the community, and the nation.

NOW THEREFORE, I, Ronnie J. Rimbart, Mayor/President of City Council of the City of Oberlin, Ohio, do hereby proclaim the week of October 7-13, 2012, as **Public Power Week** in the City of Oberlin.

IN WITNESS THEREOF, I have hereunto subscribed my hand and caused the Great Seal of the City of Oberlin, Ohio to be affixed hereto this 1st day of October 2012.

Ronnie J. Rimbart
Mayor/President of Council

Doug McMillan thanked Council for the proclamation and invited Council and the community to the upcoming Open House scheduled to take place Saturday October 6, 2012 from 12:00 p.m. to 3:00 p.m. He also mentioned that over 800 compact fluorescent bulbs were handed out by Efficiency Smart over the weekend at the Community Block Party.

Broadwell remarked on how nice it was to have a municipally owned power system that really worked for the people. Recently he had lost power at his home and OMLPS was able to come out and resolve the issue in a timely manner.

- (e) Discuss and consider scheduling an Executive Session at 6:15 p.m. on Monday, October 15th for the purpose of discussing the annual performance evaluation of the City Manager.

Motion to schedule an Executive Session at 6:15 p.m. on Monday, October 15th for the above stated purpose was moved by Soucy seconded by Burgess.

Roll Call: 7 Ayes

0 Nays

Motion Carried

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

Tom Geller introduced Maartje Swart a Councilmember from IJssellmonde, a sub-municipality in Rotterdam of Netherlands, who was visiting the City of Oberlin for a few days. IJssellmonde's population which she represents is approximately 60,000 people. She also represents IJssellmonde to the whole City of Rotterdam which is about 600,000 people.

Council President Rimbart asked Ms. Swart to address the Council.

Swart remarked on how charming she found the City to be. She had spent most of her time traveling to various venues in the City including some of the small merchant stores in the downtown area and the Allen Art Museum. Her experience left her impressed with how well the City was run.

John Elder 121 Kendal Drive read prepared statement into the record supporting a Resolution to regain local control of oil and gas exploration and operation:

“ I want to thank you as members of the Oberlin City Council for giving consideration to a proposed resolution toward the goal of regaining local control over oil and gas exploration and operation within the bounds of our City. As you may be aware, local control in Ohio was a key part of America's “Progressive Era” governmental reforms in 1912. This was also the period when the 20-year gas and oil boom in Ohio was going bust. The “home-rule” amendment was aimed at countering the influence of statehouse lobbyist and big-city bosses over city and village councils. Now exactly a year later we are faced with a similar challenge – How to regain the power of local self-government to protect the health and safety of our citizens! The pertinent paragraph in the 1912 Constitution, which has withstood many tests, reads:

‘Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with the general laws.’

In 1987, after an order by the Governor, it was determined by the State Oil and Gas Regulatory Review Commission that local governments, through the adoption of fire codes and zoning resolutions, play a critical role in assuring the safety of citizens on oil and gas issues, given the small number of Ohio Department of Natural Resources inspectors.

Despite this history, in 2004 House Bill 278 created a new division of mineral resources management and gave the division “sole and exclusive authority to regulate the permitting, location, and spacing of gas wells within the state.” I should note in regard to “assuring the safety of citizens” the Oil & Gas Accountability Project has just issued a report showing that in Ohio in 2011 there were 27 oil and gas inspectors to oversee 64,500 active

wells – 2,388 per inspector. More than 91% of active wells were not inspected. In 2011, one penalty was issued for every 57 violations, and there is no way of tracking how complaints are dealt with by the division.

In both Pennsylvania and New York, municipalities are trying to regain local control in the face of concerted and well-funded opposition from the oil and gas industry. At least one judge in New York State has now ruled in favor of a municipality claiming the right to ban “fracking” within its limits. Here in Ohio more than a dozen municipalities, including Cincinnati, have adopted resolutions similar to the one that is before you now, and on August 1 Cincinnati passed an ordinance prohibiting injection wells – which are increasingly being used to dispose of toxic fracking fluid from out of state.

I should note that several national environmental organizations, including the Environmental Defense Fund and Food and Water Watch, have launched campaigns to assist municipalities in regaining local control over oil and gas exploration and operation.”

Ellen Mavorich, 77 Orchard Street remarked that she recently relocated to Oberlin because her family liked the idea of a diverse small town college community. They were drawn to the culture of Oberlin and particularly interested in the focus on sustainable living. They are interested in passive solar heating and green building design and they applaud the City’s and College’s commitment to the Clinton Climate Initiative. She and her family want to be a part of the work and the vision of the Oberlin project and she is interested in building a positive energy home in Oberlin. They feel that Oberlin is the right place to involve and to teach their children, by leading by example. This is why they were concerned to learn that Council had not enacted any local measures to protect the community’s rights which are being threatened by the encroaching hydro-fracking industry. She felt it was necessary to speak out because while living in Pennsylvania they witnessed how this industry impacted one stunned community after another. She urged Council not to think of other issues while this community was still at risk. The infrastructure hazards were not just well sites but miles and miles of pipelines, compressor stations, and of course injection wells. It didn’t take much research to discover this inherently dangerous hydro-fracking experiment brings great risk including basic logistical problems which will impact the residents of Oberlin. This industry operates with a large framework of contractors, sub-contractors, and sub sub-contractors, which creates a lot of finger pointing and a lack of accountability. It also creates a litigious nightmare for the residents and the City. This industry can also send residents who rent into the streets. The cost of rent will increase as temporary workers from out of state offer to pay high rents to local landlords. The people of Oberlin have a long history of brave and bold action to protect citizen’s rights. The Oberlin Council and leadership have shown their talents and abilities in steering the City to be the gem that it is now. She urged Council to act quickly to protect the rights of the citizenship and to show brave and bold leadership on this particular issue.

Burgess remarked that most of the fracking that has happened around Oberlin so far has been out in the township areas and not in the municipal limits. There has been evidence that even with most fracking locations being so far from Oberlin that they still have an impact on our water supply. Our City reservoir is not in the City limits and we really have no jurisdictional control over the land around our reservoir. Passing resolutions or sending letters to the State house about how we want to assert our local rights here in the municipality will not safeguard our water supply. He proposed that the group (that sent the resolution to Council pertaining to this topic) edit the form so that it is much more specific in identifying the State law that withdrew Oberlin’s right to self control. As it is written now it is a little vague and if he is going to support the resolution, it will need to be more specific. He stated that once that was done he would be happy to consider it.

Samuel Rubin, 189 East College Street, remarked that Broadview Heights, a suburb of Cleveland of 13 square miles is currently home to over 90 unconventional gas wells. Had he been prepared he would present to Council images that would document that this is something that does happen to municipalities and one of the reasons why pushing for Home Rule is so important. Furthermore he has been working with a group called Communities for Safe and Sustainable Energy. This is a small citizens group based in Oberlin that has come together around the issue of hydro – fracking. As they do research and start to look at what other communities are doing they

have found this idea of a Human Rights Based Ban. The most famous example has been done in Pittsburg, PA other cities include Yellow Springs and Broadview Heights, Ohio. The idea of a HRBB is to shift the focus from a conversation about legal technicalities over zoning and into a discussion about human rights. The group that is pioneering this approach is the Community Environmental Legal Defense Fund (CELDF), he was currently doing research in this area and as he knew more he would be willing to keep Council updated.

Soucy reminded the public that this Council passed a resolution four weeks ago, in support of banning all fracking across the state until more information was available. Though they understand that the effect of that resolution may be minimal, it was passed unanimously and it showed that Council has an interest in this issue. They look forward to gaining more information about fracking and the Human Rights Based Ban and appreciate Mr. Rubin's willingness to become a part of that research.

Rimbert remarked that Council addressed the fracking issue as early as they did because they were concerned about the impacts that fracking could have on communities. He thanked the members of the public for bringing the matter before Council but urged them to also contact State Senator Manning, and House Representative Dan Ramos.

3. OLD BUSINESS:

(A). ORDINANCE No. 12-68 AC CMS: An Ordinance Amending and Replacing Chapter 1351 of the Codified Ordinances of the City of Oberlin Relating to the Regulation of Signs, Deleting Sections 1321.80 and 1321.82, Adding New Sign Definitions to Chapter 1321, and Amending Section 1357.10(c)(12) of the Codified Ordinances of the City of Oberlin Related to Signs in Commercial Districts (Outside of the Central Business District). (1st)

The Clerk read by number and title only.

Norenberg recapped the discussion from the previous meeting. He added that a memo had been provided for Council to respond to questions raised concerning changing the appeals process.

Mucciolo remarked that he had spoken with Janet Haar, the Director of Main Street Oberlin over the weekend concerning this topic. He asked that this ordinance be passed on second reading at this time to allow for additional public comment as opposed to final reading.

Soucy referenced a memo from Gary Boyle related to the question concerning the Sign Code Appeals process, she felt that it would be unfortunate to set up a system that had the potential to put two City Commissions in conflict with each other. She appreciated Mr. Burgess's interest in this and she would support Mr. Mucciolo's request to let this go for an additional reading, but she believed that the reasons for maintaining the present system in place were substantive and convincing and she would support maintaining the present system in place.

Burgess asked the Acting Law Director to explain the process that would be used in appealing the decision to the court. Nedwick remarked that the first appeal would be to the Planning Commission and if the person was not satisfied with that outcome then they could appeal to the Court of Common Pleas. Burgess asked how long would it take for an appellant to hear a decision from the Court. Nedwick remarked that a response time would vary by Judge. Each Judge has a different time frame for when they get through their docket. Burgess asked if it would be a matter of days, weeks or months. Nedwick stated that there were situations where this process can be expedited but on a regular basis the Court of Common Pleas can take months to issue a decision. Burgess remarked that he would be willing to consider the Court appeal process, if language could be included that would recommend an expedited process. He felt that when a business comes in front of the Planning Commission for a decision, business decisions are often timely and they need to be done quickly. He expressed concern that the appeal process would take an undo amount of time. One of the reasons for it going before the Zoning Board of Appeals is that it would happen within 30 days. He felt that if this were to go to the Common

Pleas Court then they would not be able to guarantee a timely appeal process, but he agreed with Mr. Mucciolo that this should go for a third reading.

Soucy asked if Planning and Development Director Gary Boyle could address the time issue. Boyle remarked they wouldn't be able to control the time it takes for a Judge to review an appeal. That would be in the Judges purview whether it's local or in the Common Pleas Court. He recalled only a few appeals applications in almost 15 years that the Planning Commission wasn't sympathetic with the nature of the appeal request, subject to conditions or standards being met. Not knowing exactly how the Court of Common Pleas worked, he felt that it was more likely that an internal process would be faster and that is why they have provided for the Planning Commission. In the past the Planning Commission and Zoning Board of Appeals have gone out of their way to undertake timely reviews. He felt that there was a timely internal review built in the process. There is no cost for any appellant who feels aggrieved by any decision to go to the Planning Commission and they will probably be heard within two weeks depending on when the appeal is filed.

Roll Call: 7 Ayes 0 Nays Motion Carried
(2nd Reading)

4. NEW BUSINESS:

(A). ORDINANCE No. 12-71 AC CMS: An Ordinance Authorizing an Amendment to the Contract with Crossroads Asphalt Recycling, Inc. of Columbia Station, Ohio, for the 2012 Pavement Crack Seal Program in the City of Oberlin and Declaring an Emergency. (1st)(E)

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

Roll Call: 7 Ayes 0 Nays Motion Carried

The Clerk read as directed.

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

City Manager Norenberg said the initial award of this contract was awarded in September. The Public Works Department has been reviewing the streets in need of crack sealing, with the help of an outside contractor. They are recommending an additional 6,400 lbs of crack seal.

Mucciolo noted that the initial estimate was off by 25%. He asked if the roads were worse than expected? Baumann remarked that one of the challenges of estimating cracks that need to be sealed is trying to determine how deep the cracks are and how much material it will take to fill them. This has been a common problem when doing crack seal projects.

Foregoing further discussion a motion to suspend the rules requiring three readings and to elevate the ordinance to an emergency for the reasons stated in Section 3 was moved by Burgess and seconded by Soucy.

Roll Call: 7 Ayes 0 Nays Motion Carried
(1st, Suspension of Rules/ Emergency)

Roll Call: 7 Ayes 0 Nays Motion Carried
(1st, Final)

5. OTHER NEW BUSINESS: None

6. COUNCIL COMMUNICATIONS:

- (A). Referrals**
- (B). Advocacy**
- (C). Correspondence**
- (D). Reports**

Sharon Soucy

- Shared that resident Shirley R. Johnson was in Lorain Community Hospital.
- Discussed invitation from the League of Women Voters inviting Council members to participate in forum concerning citizen participation in City government. She reminded Council members that only three members of Council could attend a meeting at this time. Plans at this time have been put on hold until they can ensure compliance has been met with the Open Meetings Act.

Aaron Mucciolo

- Mucciolo said that he has spoken to various members of Council about the issue of Home Rule. There are multiple laws in the State of Ohio that seems to conflict with the constitutional provision on Home Rule. He thought that it would be helpful for Council to know if any of these laws (not constitutional amendments) have been challenged and if so, with what success, regardless of their focus. He stated that while he had discussed this with Council members he was remiss in discussing it with the Law Director but would be willing to bring it to him in the form of a referral from Council unless Council wanted to address it in agenda session.

Rimbert remarked that he didn't see any reason why they couldn't do that.

Bryan Burgess

- Announced that this weekend Oberlin will be one of a half dozen Solar and Renewable Energy tours around the State of Ohio. This event will be sponsored by Green Energy Ohio, this is the seventh year that Oberlin has done it. It will kick off Saturday morning at 10:00 a.m. at the Lewis Center and the caravan will move on from there to a couple of different sites including EDI's Landfill Gas Generators and the College's new solar field.

Charles Peterson

- Reminded everyone that early voting in Ohio will start tomorrow.

Ronnie Rimbert

- Asked Mr. McMillan to address the changes that were made to the Efficiency Smart Program. McMillan outlined several rebate offers that were being introduced to the public. In addition he noted that OMLPS was in the process of revising the City's program as well.

7. CITY MANAGER'S REPORT:

Several updates were mentioned by the City Manager:

- Followed up on remarks from Burgess regarding the Green Energy Tour. He remarked that plans were in the works to set up a tour (of the College's Solar Panel project) for members of Council as well if they couldn't get out to the tour this weekend.
- The City Manager noted that a memo had been provided to Council regarding the Climate Action Plan updates. He asked for additional time to get the Climate Action Plan revisions submitted to Council and to schedule a work session. Mucciolo said that if more time is needed it should be given, but they do not want to see this coming before Council towards the end of next year. Burgess remarked that this was not a deadline that he felt they should extend. If Council was not going to have a work session on this prior to the end of the year. It should definitely have a draft of the plan no later than December 31st. Norenberg agreed that a draft could be provided to Council before the end of the calendar year, with a work session to be scheduled early in 2013.
- Thanked the businesses, City departments, and organizations that participated in the Community Day Block Party.
- Announced that City of Oberlin has twelve finalists for the Lorain County Beautiful Awards, more than any other community in the County. The award dinner will be on October 25th at 6:00 p.m.
- Will be leaving Friday late afternoon to go to Phoenix to attend the Annual International City County Management Association Conference.

Soucy asked if they could get a City table for the LCB award dinner on the 25th. Norenberg said he would make the arrangements for the table.

8. FINANCE DIRECTOR'S REPORT:

Sal Talarico, Finance Director

- Informed Council that a resolution for Council to approve the tax rates for 2013 would be presented to Council at the next meeting. This is a required resolution by the County that needs to be approved on emergency. It authorizes the tax rates that have already been approved by the voters so that the County can assess the taxes accordingly next year.

9. PUBLIC PARTICIPATION:

10. ADJOURNMENT:

Being that there was no further business to come before Council the meeting adjourned at 8:05 p.m.

Attest:

BELINDA B. ANDERSON, CMC
CLERK OF COUNCIL

APPROVED:10/15/2012

RONNIE J. RIMBERT
PRESIDENT OF COUNCIL

POSTED: 10/16/2012