



## **Minutes of the Regular City Council Meeting**

Held on Monday, August 20, 2012

7:00 p.m.

### **1. COUNCIL BUSINESS**

- (a) Call Regular City Council Meeting to Order and Roll Call – 7:00 p.m.

A regular meeting of the Oberlin City Council was held on August 20, 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 7:00 p.m., by Presiding Officer Ronnie Rimbart. Roll Call was taken:

<b>Council Members:</b>	<b>Present</b>	<b>Absent</b>
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 checked="" 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"/>
<b>Appointees:</b>		
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 – Regular City Council Meeting – July 2, 2012.

Motion to approve the minutes of the July 2, 2012 minutes as submitted was moved by Burgess, seconded by Soucy.

**Roll Call:** 5 Ayes 0 Nays Motion Carried

- (c) Approval of Minutes – Special City Council Meeting – July 30, 2012.

Motion to approve the minutes of the July 30, 2012 Special City Council meeting as submitted was moved by Broadwell, seconded by Mucciolo.

**Roll Call:** 5 Ayes 0 Nays Motion Carried

(d) Appointments to Boards and Commissions.

A motion to appoint the following slate of candidates to fill existing vacancies on the Recreation and Resource Conservation and Recovery Commission was moved by Broadwell, seconded by Burgess.

Slate of Candidates:

Recreation Commission - Tonya Rosen-Jones, term ending 12/31/2013

Resource Conservation and Recovery Commission - Paul Kobulnicky, term ending 12/31/2014

**Roll Call:** 5 Ayes 0 Nays Motion Carried

(e) Discuss and consider not requesting a hearing relating to the renewing of Alcoholic Beverages Permits.

*Peterson entered Council Chambers at this time.*

Motion not to schedule a hearing relating to the renewing of Alcoholic Beverages.

**Roll Call:** 6 Ayes 0 Nays Motion Carried

(f) Discuss and consider scheduling an Executive Session for September 17th at 6:00 p.m. for the purpose of the annual performance evaluation of the Law Director.

Motion to schedule a work session for September 17<sup>th</sup> at 6:00 p.m., for the above stated purpose was moved by Soucy and seconded by Peterson.

**Roll Call:** 6 Ayes 0 Nays Motion Carried

(g) Discuss and consider a request from Providing Oberlin with Efficiency Responsibly (POWER) for project funding from the Sustainable Reserve Fund.

Members of Council heard a request from applicant Cindy Frantz, board member of POWER, for the above stated purpose. It was noted that these funds would be used to develop a new initiative that will offer a broader, more personal, one-on-one approach to residential energy efficiency engagement and implementation. This program will be called the Energy Advocacy and Efficiency Assessment Service. Frantz remarked that the program was developed out of a need to accommodate a new reality. Currently there is an efficiency program available through Columbia Gas that is well funded and can benefit a wide range of people in spite of their income level. POWER's goal is to help residents take advantage of this program as well as Oberlin's Efficiency Smart Program. Neither of these programs has been utilized to their full potential and recent research and experience suggests there are a lot of barriers preventing the average homeowner from taking advantage of these benefits. Research has also revealed that the success of these programs is based on having a single person that people can trust and feel comfortable approaching who can help them navigate through all the programs and options out there. The idea is to create a one-stop shop experience for the average home owner. POWER would hire a second staff person to work with Pat Knight. This energy advocate will serve the role as a caseworker who can answer questions for residents and help them take advantage of these efficiency programs being offered.



(A). ORDINANCE No. 12-56 AC CMS: An Ordinance Approving an Interconnection Agreement with Oberlin Spear Point Solar One, LLC and Oberlin College and Declaring an Emergency. (2<sup>nd</sup>)(E)

The Clerk read by number and title only.

Motion for passage on second reading was moved by Mucciolo, seconded by Broadwell.

Norenberg stated that a Special City Council Meeting was held in July where a lengthy discussion took place concerning the scope of the solar array project and the interconnection agreement. At this time College representative Rob Lamppa and Electric Director Steve Dupee were present to provide Council with additional information.

Dupee remarked that the City and the College were continuing to work on a resolution on the storm sewer easement that runs under the project. They hope to have it resolved prior to third reading. Burgess asked if the storm drain issue had caused construction activities to stall. Dupee remarked that it had not. Burgess asked if the project would be constructed over the top of the storm drain. Dupee remarked that it was. Burgess asked if constructing the project over the storm drain would make relocation of the storm drain more difficult. Dupee said it would once the project was complete. Burgess then asked why they hadn't issued a stop work order on the project. Norenberg replied that it was not their project to direct being that it was outside of City limits. However, they have advised the College that because this project impacts the easement, staff feels it is important for the storm drain line to be re-routed outside of the fenced-in area where the solar panels are being installed, in order to allow the City to maintain that easement.

Peterson asked if there was an agreement in place to have this done. Norenberg remarked that this had only been suggested at this time. They are working on an agreement.

Mucciolo asked the Public Works Director to talk about the service area of the storm line. Baumann remarked that this is an 18 in. storm drain; it's outfall from the Oberlin Commons subdivision detention basin. It flows approximately 3,100 ft. NE across College property to outlets. Law Director Severs negotiated this easement with the College in 1999. Baumann noted that due to the manner in which the easement would be accessed, he felt obliged to recommend that the storm drainage be relocated around the site. The site is laid out on a 20 ft. grid of steel I-beams that projects 6 ft. or so above the service. There is an 8 ft. tall fence around the site with barbed wire around the top, and approximately 285 ft. of the storm line is within that fenced enclosure. By the time City staff discovered this it was too late according to the College to relocate their project to avoid this conflict. Staff has continued discussions with Mr. Lamppa since that time to press the point and to see if they can come to some mutually agreeable terms. The easement that the College granted the City provides a process for terminating the existing easement and relocating the storm sewer. It is his opinion that the easement is in the City's favor and the relocation should occur at the College's expense. Staff has calculated that it will be approximately \$100/ft. to relocate the line and we are talking about 500 ft. to 600 ft.

Mucciolo said the worst case scenario is that the array would get built over the easement and there would be no change in anything at this time. He asked if the construction project would impact the functionality of that line. Baumann remarked that it would not. It would however, materially adversely interfere with our ability to operate and maintain that line.

Broadwell asked if relocating the line would create an issue with outflow. Baumann remarked that they have just received the survey data. This change would make the line flatter; whether or not it still falls within good engineering practice he wasn't able to answer. Broadwell remarked that he is concerned that with the flatter line it may expose some residents to back flow issues. Baumann said the detention basin is designed to hold back a certain amount of water to begin with, and the storm drain this is designed as overflow of that basin, so there is some capacity in place.

Soucy remarked that if there were a problem and we went around then we would have access to fix it. Broadwell remarked that his concern is with there being a problem because the line is poorly designed not whether or not they have access to fixing it. Baumann remarked that this might be the case with any storm or sewer line. Currently they have between 80 to 90 mi. of sanitary and storm sewer and really no way to examine those on a regular basis. To a certain extent we are reactive instead of proactive as a result of limited resources.

Peterson asked how long the parties involved knew about the issue with the storm sewer. Baumann remarked that the City has known about it for three months and the College was made aware of it about ten weeks ago. Peterson asked how long construction had been going on. Baumann remarked that the construction has been going on for about four months. Peterson said he was uncomfortable with current state of affairs. There is a need to gain access to this drain if something goes wrong and it seems to him that having a solar array on top of the easement in the midst of a problem could compromise that access. He asked if the College had suggested a resolution.

Rob Lamppa, Director of Sustainability and Energy Management for Oberlin College, said the College had been very interested in collaborating with the City to come to a reasonable solution to what is apparently a concern. If something were to happen to this line, it would be difficult to repair the whole thing with the conditions that are currently there. This is a storm water overflow line which is usually dry. It keeps the Eastern Avenue pond from overflowing. Lamppa stated that he had seen the televising of the line which was done by City staff which revealed that, for the area under the solar array, there is one joint that has a small leak; the rest of the line is in great shape. The line is made of a material that is expected to last for the next 40 to 50 years. There isn't any adverse issue with the line at this point and it isn't something that is flowing all the time so that if it were plugged the likelihood of this backing up to residents is low. Developers took extra care not to adversely impact the function of the easement and the College is considering requests to relocate the line. It was suggested by one City official that this be done over a 5 year period, which is something that the College would be amenable to. In the meantime the existing line (under the solar array) would continue to function as it has been. The re-route could be installed without impacting the existing line because it goes around it and the existing line would then be abandoned.

Rimbert remarked that he would like to pass this on second reading to allow the City and the College a chance to get together to resolve this issue. Council is looking for a timeline as to when the line can be redirected.

Peterson remarked that he would support this on second reading but he would like to see something more concrete before adopting the ordinance.

Broadwell asked how much this was going to cost. Baumann remarked that it would be around \$50k to \$60 thousand dollars.

Soucy reminded members of Council that the ordinance before Council was about the interconnection agreement; the easement was another issue. Furthermore she expressed her support for the interconnection agreement and hoped that the storm water issue could be resolved in the meantime.

Richard Nord, 6256 Vermillion, Ohio noted that as the developer of the Oberlin Commons Project, the easement in question is designed to accommodate the Eastern Avenue storm detention basin as well as the second phase of the project which would include the Western Avenue storm detention basin.

**Roll Call:** 6 Ayes  
(2<sup>nd</sup> Reading)

0 Nays

Motion Carried

#### 4. NEW BUSINESS:



to the west came before the Planning Commission and requested this easement. This was the first time that this issue had been presented to the Planning Commission. We had been dealing with this matter for a number of years. As a Planning Commission we were forced to deal with a request on the part of a contiguous owner that there would be an additional easement and the position of the owner of the property and the developer that they didn't want to grant that easement. The Planning Commission in adopting the subdivision rejected the argument of the adjoining property that there should be this easement closer to US20 to allow access closer to US20 to that collector street. This was done on a number of grounds:

- They hadn't been presented with this request before and the developer who had been working with the City for five or six years was there to obtain approval. They didn't think it was appropriate to insist on this additional extraction from the developer at this late juncture.
- The thought was also expressed that if the developer to the west wanted a different access other than what is provided for in the subdivision plan, he could make the request to the property owner and work out an arrangement with him.
- They also discussed the fact that if the demand of the developer of that corner parcel was unreasonable and the City wanted to step in then they were in a position by eminent domain to take that sliver of land and then create an easement for the property to the west. The value for that sliver of land would be nominal.
- The final consideration was whether or not it was appropriate to have that access to the collateral road at the position where the owner to the west wanted to have it. It may create stacking or other issues that simply hadn't been addressed.

As a result of all of these concerns the Planning Commission voted 3/1 to approve that subdivision without that easement. The position of Planning Commission member Peter Crowley to include that easement was considered but the majority of the members ultimately rejected it.

Burgess suggested that it made the most sense that when the collector street makes a left and turns east then it could actually become a 4-way intersection such that if cars wanted to turn right and head west they would be able to access the adjacent property on the western side of that lot. The City should maintain right-of-way or at least be able to maintain the future development rights for that property in this agreement. Not necessarily that something has to be paved and done right now, but just that we hold that ability so that should the time come to develop the land to the west we have the ability to tie into the street at that location. He didn't think that eminent domain was a very business friendly way to do business in the future.

Mucciolo asked if the property owner to the west had a development plan pending. Norenberg remarked that Planning Director Gary Boyle was on vacation and would be better equipped to answer this question. Carlson remarked that this information had not been presented to the Planning Commission at this time. Mucciolo asked if one of the public improvements was the collector road and if passing this ordinance would mean that the collector road would go in, curved to the left as depicted on the map or was this just a proposed plan from the developer. Baumann remarked that he would defer to the Law Director but it was his understanding that the Planning Commission would approve the final subdivision plat without Council's oversight and the plan before Council is based on that plat. So it is unclear to him whether Council has the authority to amend the plat as presented and approved by the Planning Commission.

Law Director Severs remarked that there can be some minor changes to the plat but if roads are being changed then that is seen as a major change and that would not only have to be approved by the Planning Commission but would also have to come back to Council.

Mucciolo remarked that he is concerned about the long term effects of the decision reached by this process if the roadway is accepted as presented.

Baumann remarked that the reasons why this development has taken several years to be processed is because there are wetlands onsite and the developer has gone through considerable trouble and expense to satisfy the requirements of the Army Corp of Engineers and after years they have worked out an arrangement to preserve certain wetlands onsite and to pay for the restoration of other wetlands offsite. So the conceptual proposal that has been put forward - to have the collector street run substantially to the north instead of curving to the west - would direct that new street through an area intended for wetland preservation.

Burgess remarked that the suggestion was not to relocate the collector street itself but at the intersection make a spur that heads west.

Baumann noted that the location is approximately 180ft. from a signalized intersection on a State Route which would more than likely not be an acceptable location for a 4-way stop that could potentially back up into the intersection on a State Route.

Peterson posed questions related to ways to avoid future congestion issues in this area. Baumann advised that one of the responsibilities between the Planning Commission, Planning and Development Department, Public Works and the Engineer's office as well as ODOT is to provide for responsible access management to the State highways which is why they are trying to focus those nodes at a couple of locations in the area and provide internal circulation from there because stop and go turning movements on the State highways are a significant cause of vehicular accidents.

Rimbert remarked that with all of the questions being raised the discussion is becoming rather obscure. He suggested that Council consider passing this on first reading to allow additional time for questions and concerns to be addressed prior to the next meeting.

Chairman Carlson emphasized the importance of hearing from the Planning Director and proposed that this request be postponed until a time where Mr. Boyle could address these matters. He pointed out that it was not the Planning Commission's intention to preclude access to the west. In fact it was the Planning Commission's desire that there would be access to that western parcel which is in line with the City's Strategic Plan. It is more of a question of where that access should be located. He believed that the Planning Director would be able to provide information that was relevant to this issue for Council's consideration.

Developer Richard Nord, of Land Concept Co., 46223 US20 remarked that he is the owner of the property to the west of the Triad Development project site. He said that they had been trying to work with the City for years to address the easement issue being discussed. A letter was drafted 3-4 weeks prior to the meeting where the final subdivision plat was approved by the Planning Commission. Once the final decision was made by the Planning Commission not to address the easement issue, Land Concept Co., spoke with Triad Developers and advised that they would be willing to incur some of the cost (per this construction agreement with the City) to put a curb cut in over to their property. The approved curb cut to the south would not work for them at all because it would cross into his property at a pond. Triad developers expressed additional concerns about the cost which was said to be around \$400,000. He remarked that the best development plan would be to come up with a resolution that works for all parties involved keeping in mind some of the concerns brought up tonight concerning good development.

Burgess asked how much would it cost for a business to tie into one of our streets. Baumann remarked that apart from paying a deposit to ensure that no damage is made to the existing infrastructure as part of the excavation permit, they didn't charge for a curb cut. Burgess stated that he believed that the plan to development is preferable to half hazard and he would prefer that they plan for future development. This doesn't require the installation of anything right now all that it requires is an easement that is set aside for that property so that in the event that it is developed in the future the adjacent property owner would have the ability to tie into the street at that location. This would not be based on Triad's development plan but on the City's easement and what we have the foresight to set aside.









(G). ORDINANCE No. 12-63 AC CMS: An Ordinance Amending Ordinance 07-51 AC CMS, as Amended, Appointing the City Clerk/Clerk of Oberlin City Council for the City of Oberlin, Ohio, to Adjust Certain Benefits and Declaring an Emergency. (1<sup>st</sup>)(E)

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

**Roll Call:** 6 Ayes 0 Nays Motion Carried

The Clerk read as directed.

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

Rimbart thanked the Clerk for her service to the City. The clerk thanked members of Council for the increase.

Mucciolo asked if there would be any problem applying these benefits retroactively. Talarico remarked that there wouldn't be.

Foregoing discussion a motion to suspend the rules requiring three readings and to elevate the ordinance to an emergency for the reason stated in Section 3 was moved by Broadwell and seconded by Mucciolo.

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

**Roll Call:** 6 Ayes 0 Nays Motion Carried  
(1<sup>st</sup>, Final)

(H). RESOLUTION No. R12-10 CMS: A Resolution Supporting the City of Oberlin's Application for a Local Government Innovation Fund Grant for a Fleet Analysis Program in Conjunction With Other Local Partners and Authorizing the City Manager to File an Application Therefore, and Declaring an Emergency. (1<sup>st</sup>)(E)

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

**Roll Call:** 6 Ayes 0 Nays Motion Carried

The Clerk read as directed.

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

City Manager Norenberg remarked that the purpose of the proposed ordinance was to seek authorization to file for a Local Government Innovation Fund Grant for the above stated purpose. If approved the grant will be used to conduct an assessment of City fleets in order to identify strategies to increase efficiency, determine possible alternative fuel options, explore alternative fuel vehicle procurement/replacement practices, and to develop a fleet specific petroleum reduction plan based on the assessment that would help reduce transportation-related emissions.

The grant application will seek approximately \$81,000 in funding for the study.

Broadwell said the application that was provided to Council states that it is a loan. Norenberg confirmed that staff was seeking a grant not a loan.

Sharon Pearson, Program Coordinator for the Oberlin Project and the liaison to the Oberlin Project Transportation Committee, thanked Council for its consideration of this resolution.

Foregoing discussion a motion to suspend the rules requiring three readings and to elevate the ordinance to an emergency for the reason stated in Section 6 was moved by Mucciolo and seconded by Broadwell.

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

**Roll Call:** 6 Ayes 0 Nays Motion Carried  
(1<sup>st</sup>, Final)

**5. OTHER NEW BUSINESS:** None

**6. COUNCIL COMMUNICATIONS:**

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

Sharon Soucy

- Reminded everyone that the City is sponsoring a gathering for Sigrid Boe in the Courtyard at the Oberlin Inn on Wednesday between 5:00 p.m. and 7:00 p.m.

Bryan Burgess

- Climate Action Committee has been meeting over the summer and is on schedule to bring an updated plan to staff and Council by early November.

**7. CITY MANAGER'S REPORT:**

Several updates were mentioned by the City Manager:

- City's brush collection will start September 17<sup>th</sup>
- Oberlin Connector Bus Service update
- Budget process has started
- Lorain County Administrator called regarding the possibility of collaborating on a Local Government Innovation Fund Grant for Storm Water Utility
- Discussed demolition phase for the Green Acres Site

**8. FINANCE DIRECTOR'S REPORT:**

- Gasholder Building Fund Update

A motion committing \$50,000 from the City's Income Tax Capital Improvement Fund to improve the structural integrity of the Gasholder building, plus an additional 25% of all fundraising, including any grants that may be awarded in the future, for a total amount not to exceed a grand total of \$100,000, from the Income Tax Capital Improvement fund, and that this motion supersedes the September 7, 2010 motion was moved by Burgess, seconded by Soucy. All members consented to the motion.

- Quarterly Report update

**9. PUBLIC PARTICIPATION:**

**10. ADJOURNMENT:**

Being that there was no further business to come before Council the meeting adjourned at 9:34 p.m.

**Attest:**



BELINDA B. ANDERSON, CMC  
CLERK OF COUNCIL

APPROVED: 9/04/2012



RONNIE J. RIMBERT  
PRESIDENT OF COUNCIL

POSTED: 9/05/2012

## Budget Amendment Detail - Ord. # 12 - 62 AC CMS

## Budget Transfers

<u>From</u>	<u>Amount</u>	<u>To</u>	<u>Description</u>
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## Budget Adjustments

<u>Amount</u>	<u>To</u>	<u>Description</u>
1,000.00	111.1101.54071	Increase for police juvenile safety education grant.
163.54	111.1102.51010	Sunoco Gas hazmat response costs.
1,086.55	111.1102.51015	Sunoco hazmat response costs & July 4th overtime.
471.50	111.1102.54025	Sunoco Gas hazmat response costs.
5,000.00	111.2102.54027	To cover previous transfer amount to concessions line item.
9,500.00	111.2102.54047	July 4th fireworks budget.
2,500.00	111.2102.54056	Rotary donation for Recreation summer trips.
1,982.00	111.2102.54065	Additional expense associated with softball tournament.
22,320.00	111.2102.54068	Operation of the concession stand not in initial budget.
35,000.00	111.4101.54035	To cover additional unbudgeted expense.
15,000.00	111.4101.54052	Business incentives & revenue sharing- Moore Wallace, Greenfield Solar & Pittsfield Twp.
163,000.00	112.4103.56038	Green Acres demolition.
67,353.28	112.4103.56038	Insurance proceeds for the Water Works Bldg restoration.
22,000.00	411.4103.54060	TIF reimbursement to the schools.

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 346,376.87 Net Budgetary Change - all funds