



Minutes of the Regular City Council Meeting

Held on Monday, September 3, 2013

7:00 p.m.

Executive Session - 6:15 p.m. – Conference Room 1
Purpose: Annual Evaluation of the Finance Director

1. COUNCIL BUSINESS

- (a) Call Regular City Council Meeting to Order and Roll Call – 7:18 p.m.

A regular meeting of the Oberlin City Council was held on September 3, 2013 in the Council Chambers of the Oberlin City Hall, located at 85 S. Main Street Oberlin, Ohio. The meeting was called to order at 7:18 p.m., by Presiding Officer Ronnie Rimbart. Roll Call was taken as follows:

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"/>
Jon Clark, 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 – August 19, 2013.

Motion to approve the minutes of the August 19, 2013 Regular City Council meeting as submitted was moved by Mucciolo, seconded by Soucy.

Roll Call: 7 Ayes

0 Nays

Motion Carried

- (c) Continue discussion regarding possible changes to Section 551.05 (b) of the Codified Ordinances of the City of Oberlin Related to Naturalized Vegetation Areas.

Norenberg offered introductory remarks and deferred the discussion to Gary Boyle, Oberlin Planning and Development Director.

Boyle provided an update concerning the naturalized vegetation areas throughout the City. Boyle stated it has been a busy summer for the enforcement crews and for city contractors who mow properties when property owners violate the Cities Naturalized Vegetation Ordinance adopted by City Council on April 4, 2011. At this point a number of additional properties have registered with the City, since their discussion of this matter in the meeting in June. They have about thirteen (13) additional registrants to date.

Staff has issued violation orders on over 100 properties. Some owners have complied; many have not. There have been minimal issues with some of the residents who have filed applications for naturalized landscapes. Violators of the natural vegetation provision are guilty of exceeding the minimum setback requirements and of growing noxious weeds in their meadows, which is prohibited by City ordinance. As a result, staff will continue to work on enforcement and educational efforts. Boyle noted that the present ordinance requires that we provide notice to property owners when a violation has been deemed to be in place. Right now notices of violations are by certified mail and regular mail. Staff is looking to start advertising in the newspapers to reduce cost. Boyle remarked that revisions to the Natural Landscape discourse continued to evolve. A report regarding the results of this topic will be provided to Council in late September or early October.

Soucy said one of the things that they had talked about in the past was shifting the ordinance to only apply to backyards, which she thought would greatly ease the enforcement issues and reduce the number of complaints that they receive from neighboring lots. They could conceivably maintain that option so that those folks for whom a naturalized area is a real appeal, a backyard habitat can be encouraged, but they can go back to the original regulations for front yards.

Mucciolo asked how shifting this ordinance to restrict natural vegetation areas only for the backyard would ease enforcement issues. Boyle remarked that it would simplify the process for code enforcement staff. Currently residents are allowed to have natural vegetation in the front of their property as defined in the City Code. For those instances where there is a meadow in the front yard, there are setback regulations to adhere to that currently require code enforcement to measure the front yard to ensure that front and side lots are in compliance. Restricting natural vegetations to the backyard only could reduce some of that time. Mucciolo asked if code enforcement was currently measuring lots to make sure that they were in compliance. Boyle responded in the affirmative, adding that he had recently received a report that properties were not being maintained according to code. Mucciolo asked if this meant that properties were being maintained poorly or if it meant that properties were not being maintained at all. Boyle reiterated that there continued to be a need to educate property owners who operate under the assumption that they don't need to mow anything when maintaining natural vegetation.

Mucciolo asked that information pertaining to the nature of violations of the ordinance be included in his written report.

Burgess noted that the recommendation of the Open Space & Visual Environment Commission is to leave the ordinance as written. Furthermore, he questioned whether or not increasing the fines for repeated offenders helped to reduce the number of violations. Boyle said he would have to defer the question to Chief Miller. He explained that on the administrative end, they usually will bill that property owner. If there is a failure to pay then it becomes something that ends up on the tax role as a lien.

Norenberg said he believed that Mr. Burgess was referring to the administrative fee that was added as a mechanism to recover expenses for all of the administrative costs, and designed to serve as a deterrent, as well to potential violators. At this time they haven't seen any changes. A lot of times when the costs are certified against the property taxes it's not something that someone is paying for out of pocket. They see it lumped in with all of the fees that are on their tax bills so whether or not it has had the desired results is unlikely since people are not billed up front.

Boyle said he wasn't aware of there being any correlation between the fees increase and a decrease in code violations. Burgess asked if staff felt that another fee increase would serve as a deterrent. Boyle said they could look at charging the additional fee to the property. Burgess said he was open to further discussion.

Tony Mealy, 328 South Professor Street cautioned members of Council to be mindful that these wild flower gardens that were permitted to grow in natural vegetations could very easily become wild fires, especially given that the Northeast Ohio region is about to enter into a dry season that could last for seven years. He said that Oberlin was recognized by Lorain County Beautiful in 2012, but he doubted that the City would enter contests like that anymore, since Oberlin is becoming such an unattractive city. He continued to express his opinion on the topic at hand, noting that he was concerned about Lyme disease and rabid animals, such as raccoons, squirrels, ground hogs, and opossums. He was also concerned about deer eating up his flowers and leaving ticks. He felt that Council needed to be realistic. They live in a municipality and that has regulations to adhere to. This request for natural vegetation originally came from Oberlin College to help them save on mowing costs. His suspicion is that it probably costs more to mow around the meadows than it would to just cut the grass. He didn't see the savings, but he did see the danger as far as the health and safety of the people in this community.

Dennis Grieve, Grounds Manager for Oberlin College said that the College had several naturalized landscapes throughout Oberlin that conformed to the City Code. The reason why there are natural landscapes is due to the costs associated with maintaining the College properties. The cost for maintaining an acre of turf is about \$650/per year and a meadow area is \$27/per year, the savings is significant. In the United States statistics show that we spend roughly \$30 billion dollars mowing grass a year. Another thing that we look at is fossil fuel reduction, 1/28th of fossil fuel is required to maintain a meadow in comparison to fine cut turf. The college has to mow fine cut turf twenty eight (28) times a year by comparison they mow a natural vegetation area once or twice a year. Rain water infiltration is a big plus with meadows. Much much more water soaks into an area with more natural vegetation. Biodiversity is another plus for natural vegetation, the increase in the diversity of plants and insects returns to urban areas when we go back to natural vegetation. Turf is sterile in comparison. There is a different kind of aesthetic to the natural vegetation area. Everybody doesn't need to have a golf course look. There are textures and flowers and beauty in natural areas that a lot of people prefer and appreciate. Grieve mentioned that some of the landscaping at the college was changing to fit the realities of carbon dioxide pollution in the atmosphere and storm water flooding.

Soucy asked if the College applied for one permit for all of its "meadow" properties through the City or if they requested permits based on different areas. Grieve remarked that they assessed each area on an individual basis. They usually have multiple permits for each of the sites.

Meadows asked how many acres of college owned property were considered by the College when making this assessment. Grieve remarked that there are one hundred twenty acres of fine cut turf and about six acres of land that are being maintained as meadows.

Martin Buck, 60 North Cedar Street, said he was willing to put up with the critters mentioned in earlier remarks because the meadows also drew honey bees to his property. Honey bees have been declining worldwide and for many reasons. He alleged that scientists have concluded that in order for honey bees

to thrive they need more of a variety of plants that have not been chemically treated, which he felt the meadows provided.

(d) Appointments to Boards and Commissions.

Scott Broadwell noted that an application had been received to fill a vacancy on the Underground Railroad Center Implementation Team. The nominating committee has decided to postpone that appointment until an interview could be scheduled.

(e) Motion to adjourn to executive session at the end of the meeting for the purpose of discussion of imminent litigation.

Law Director Clark noted that Council would need to adjourn into Executive Session for the above stated purpose. He said that the items on the agenda dealing with the purpose of the Executive Session preceded the Executive Session in order and asked that Council amend the agenda so that the items would come after the Executive Session.

Clerk Anderson noted that the items were in the correct order. The agenda indicates that the matter being considered for Executive session is noted on the agenda as being addressed following the executive discussion, but because Council would adjourn back into regular session, it appears on the agenda as Other New Business. So there is no need to change the order of the agenda. The Law Director said in looking at the agenda again he sees what the clerk has indicated and proposed that no additional action be taken at this time.

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

David Ashenhurst, 260 Sumner Street recognized the loss of two members of the Oberlin Community. The first member was Naomi Barnett, who was the widow of the late Council member Harvey Gittler. Barnett also chaired the Human Relations Commissions in the late 1980's and early 90's. A memorial will be held next weekend at Kendal. The second member was Mary Ashbrook who was the widow of Dick Ashbrook. Mary also served on the City's last Charter Review Committee in 2003. Before Mary came to Oberlin she had also been a member of City Council in the City of Berea. He noted that both women were long time members of the League of Women Voters and as mentioned had ties to the Oberlin City Council.

Rimbert thanked Mr. Ashenhurst for bringing that information to members of Council.

3. OLD BUSINESS:

(A). ORDINANCE No. 13-44 AC CMS: An Ordinance Amending Chapter 927.07 of the Codified Ordinances of the City of Oberlin to Eliminate the Blanket Prohibition of the Possession of Firearms in Municipal Parks. (2nd)

The Clerk read by number and title only.

Motion to approve the ordinance on second reading was moved by Mucciolo, seconded by Soucy.

Law Director Clark remarked that under current law in Ohio it is clear that the regulation of firearms and hand guns by municipalities must yield to the provisions of the Ohio Revised Code. The Ohio Supreme Court has held on two occasions that the regulations of firearms by a municipality is an exercise of its police powers under the Home Rule amendment to the Ohio Constitution and may not therefore be in conflict with the Ohio Revised

Code. This applies to both the open carry of firearms and the concealed carrying of handguns. The Ohio Revised Code has a list of places where guns cannot be taken. Unfortunately municipal parks are not one of them and one of the Supreme Court cases that he cited dealt specifically with the prohibition of handguns in a municipal park. It is important to note, that what is being proposed does not change the law in regard to the possession of a firearm in Oberlin's City park. It is a housekeeping matter intended to update our ordinance so that it complies with the Ohio Revised Code. Whether we change our ordinance or not, firearms are permitted in our parks until the Ohio Revised Code changes. He asked Police Chief Miller to answer any questions regarding what, if any, problems they have had in the past with firearms in our parks. Chief Miller has indicated that they simply have not had any problems. Because ORC 9.68 expressly provides for the award of attorney fees to any person or entity that successfully challenges an ordinance or municipal law that is in conflict with the Ohio Revised Code. Therefore it is recommended that the proposed ordinance amending our codified ordinances be adopted.

Soucy remarked that succumbing to the state so that we don't lose our shirts is in no way an indication of how we feel about this law. What we may find ourselves doing is rescinding our ordinance in order to protect ourselves from a suit and then looking for another option to address this issue. If we do pass this ordinance on third reading in order to comply with the state we might choose immediately afterwards to pass a resolution of protest to the Ohio Revised Code provision. One of the things not available through Council action but available to groups like The Ohio Municipal League, The League of Women Voters, and citizen groups against carrying guns, is the right to pass a referendum. It would take 15% of those voters who voted in the last Governor's election. Those signatures would have to come from 44 of the 88 counties. Her point is that if she chooses to support this ordinance it in no means suggests that she supports this concept and she will look to other avenues to address it.

Broadwell said he hoped it was obvious that Council was not advocating the possession of guns in parks, but they are in a hard spot because the current state law prevails over the City's home rule. At this time he didn't see any other option but to pass it on second reading.

Burgess cited several examples of other communities who have had to deal with conforming local laws to Ohio Revised Code Section 9.68. He was encouraged to know that Oberlin was not alone in its position to leave gun regulations to local jurisdiction and it was not his intention to change the local ordinance just yet without fully exploring other options.

Soucy said a meeting was scheduled with State Representative Dan Ramos to discuss several alternatives to conforming to State Law and his description of the current legislation and Supreme Court in Ohio is that they are even more conservative than the group that originally passed this law. Representative Ramos also was not very encouraging about what would happen if Oberlin's City Council decided to fight this in court. She noted that Council was not sitting on their hands, but they are continuing to explore and get advice about what to do in this situation.

Tony Mealy, Professor Street said that he understood that one of the residents had suggested that they privatize the parks which he felt was out of line. He proposed that doing so would bring about other issues. He felt that Council should follow the advice of the Law Director. He noted that this is similar to what happened when people abused the Ohio Sunshine Laws, where they would make a public request and, if the municipality didn't follow it to the letter, they would sue them. The gun rights advocates are doing the same thing, except only this time it's with guns. He argued that the City should not only be concerned about the cost to fight this in court but also with the cost of fines and attorney fees attached to the suit. He reminded Council that they had just lost about \$1.5 million dollars in this town a few years ago defending our zoning code. So to maintain our local control of the zoning code we went into court. We won, but it still cost us a great deal of money. He said that Oberlin was not so unique and privileged that it would not be required to follow the State Constitution.

Ashenhurst, 260 Sumner Street said that he really appreciated the discussion with Dan Ramos. He also hoped that at some point there would be a discussion with our State Senator Gail Manning because she is part of the

party that is in the Majority. He would really like to get more help from her, and from areas like Clyde that are more sympathetic to that political party, but who also do not want guns in their parks. This is not a partisan issue but Representative Ramos is in the minority, even if he could cure the common cold he would be voted down.

Ashenhurst reiterated his question from the previous meeting regarding why Walter H. Drane, the City's codification consultants had not seen this conflict with the State Law when the Code book was updated in 2007. He asked what the process was for removing nonconforming language from the City Code and why the legislation which had been on the books since 1998, had not been made to conform to the ORC 9.68, which was passed in 2006.

Megan Schief said that she was still interested in privatizing the parks. She felt that the City should stand up for itself and not be afraid of law suits. They could donate the parks to the local churches as well. If Republicans can privatize so could the City of Oberlin. Council needed to hold off on making a decision on this legislation until they could come up with a better alternative.

Broadwell said that he was not an expert on the topic of privatizing parks, but based on their conversation with Representative Ramos. when property is owned by the public you can't just sell it to the lowest bidder. The property would need to be declared surplus and then it would be sold to the highest bidder.

Clark concurred with Broadwell's remarks and added that currently based on the information he received from the Police Chief, there haven't been any issues with individuals bringing guns into the park. He didn't know what would happen in the future but up until now that was not a problem.

Chief Miller reported on the gun arrests for the last three years. They have had seventeen (17) incidents involving guns across a broad range of offenses including felonious assaults, carrying concealed weapons, altering identification on weapons, having weapons under disability, possession of weapons in a liquor establishment, using weapons while intoxicated, two (2) rapes and 3 aggravated robberies with guns involved. None of these arrests occurred in the public parks and they were all unlawful possession of guns.

Burgess said at the last meeting, it was stated that there were a number of reasons why a person couldn't carry a weapon. Miller remarked that there are four cases of people having weapons while under disability. All four of these charges resulted from their prior criminal history. They all had felony convictions in the past or drug arrests so they weren't allowed to have guns on their persons. Burgess said he had received a letter from a citizen that thought that it would be reasonable that when a person is sighted with a weapon that that person would be stopped and detained until it could be determined that the person was legally able to carry that fire arm. Chief Miller remarked that he didn't believe that they would have just cause to stop someone for open carry without having probable cause for criminal offense.

Clark stated that an officer could approach anyone and initiate a conversation at anytime. If an officer sees someone who is openly carrying a firearm, the officer can approach that person and ask him anything that he wants. The person who is being asked a question is under no obligation to respond, and there is no penalty for not doing so. It doesn't mean that the officer is unable to approach someone and ask questions if there is cooperation to verify the information. An officer cannot however, detain someone while they determine whether or not they are in lawful possession of the firearm.

Chief Miller said that a person who has a CCW (Concealed Carry Weapons) permit is trained to reveal to the police officer that they are carrying a weapon and that they do have a CCW permit.

Burgess said for the time being, he would hope that if an officer sees someone carrying a weapon that they would approach that person and initiate a conversation. Miller said it probably wouldn't hurt to ask but there wouldn't be a penalty if that person didn't want to cooperate with law enforcement.

Brian Kuzawa, 808 State Route 58, said he just wanted to provide Council with his perspective on the firearms discussion. He mentioned that he carries a weapon but was not armed in Council Chambers, because state law states that municipal buildings are one location where a law abiding citizen does not carry their weapons. He didn't agree with that law. In his previous state of residence, in Arizona and in Idaho you can lawfully open carry right into Council chambers and into someone's office. He can't think of a case where a law abiding citizen open carrying initiated violence. His goal was not to be the police force his job is the protection of his family. He cannot advocate that responsibility to anyone else. He restated earlier comments that in Oberlin there hadn't been any issues in the parks. He further noted that the weapons charges which had been filed to do with those who had felonies. Kuzawa noted that he and his wife carry fire arms that have been lawfully purchased through a Federal Firearm License. Because they have only been back in the State of Ohio for two years, they are getting a full FBI screen. It is not the law abiding citizen who is protecting their three month old and their two year old, who will be causing issues with the firearms in the park. That being said he felt that too many people were worried about their rights under the Ohio Constitution to bear arms, for their own protection. Too many people forget about the responsibilities of safe gun ownership. You hear about it, like in the situation where an instructor shot a student in class, because he didn't have the proper gun safety skills. He felt that the biggest issue has been the lack of training. He understood from a law enforcement point of view that some people are concerned with the right to open carry firearms. His expressed a greater concern for the person who is hurt because a person hides their weapon and then uses it on his pregnant wife, and she have no recourse but to scream for help and then die. People might claim that they might take the firearms away from her, but he felt that at least she would be able to exercise her right to self protect.

Soucy responded that she had rights as well to live in a town where she felt protected because there aren't guns in our parks or on people's hips, opened or concealed or whatever. She wants her grandson to grow up in a town where guns are not necessary and she feels that she has the right to live in a protected area where guns are not a factor.

At the close of discussion the following vote was taken on second reading.

Roll Call: 4 Ayes
(2nd reading)

3 Nays
(Meadows, Peterson, Burgess)

Motion Carried

Elizabeth Rumics, Oberlin resident asked for the vote to be repeated. The Clerk restated the results. Soucy explained that the ordinance can go for three readings and since it passed on second reading it will come back before Council at least one more time. Rimbart said this would allow Council and the Law Director to further consider the proposed ordinance.

(B). ORDINANCE No. 13-47 AC CMS: An Ordinance Authorizing the City Manager to Enter into a Master and Other Agreements with Quality Control Inspection, Inc. (QCI) of Bedford, Ohio, for Professional Construction Inspection Services for Capital Construction Projects in the City of Oberlin and Declaring an Emergency. (2nd)(E)

The Clerk read by number and title only.

Mucciolo asked the Law Director if the changes to the attachments were substantive enough or if it would need to be reintroduced on first reading. The Law Director remarked that it could be passed on second reading.

Motion to approve the ordinance on second reading was moved by Mucciolo, seconded by Broadwell.

Norenberg said that the reason this was passed on first reading is because there was a need for more time to allow the Public Works Department more time to continue discussing with QCI a few changes in the agreement, which have been noted in the attached staff report. This agreement was designed to provide the master framework for our contract construction inspection service over the next two years for various projects. For any

projects needing inspection services under \$50,000 can be entered into an agreement directly following the approval of that capital improvement project through Council. Norenberg remarked that Council would be alerted through staff's plan through a staff report. If there are any other deviations from our normal protocol then Council could be advised as well. But any larger project (over \$50,000) that would require a contract, this request would be brought to Council with a separate ordinance. The proposed ordinance is recommended for emergency passage since they have few projects on the agenda that will be using QCI next month.

A motion to suspend the rules requiring three readings and to elevate Ordinance No. 13-47 to emergency for the reasons stated in Section 3 was moved by Broadwell, seconded by Meadows.

Roll Call: 7 Ayes 0 Nays Motion Carried
(2nd, Suspension of Rules/ Emergency)

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

4. NEW BUSINESS:

(A). ORDINANCE No. 13-49 AC CMS: An Ordinance Authorizing the City Manager to Apply for and Accept Ohio History Fund Grant Program Funding from the Ohio Historical Society and Declaring an Emergency. (1st)(E)

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

Roll Call: 7 Ayes 0 Nays Motion Carried

The Clerk read as directed.

Motion to approve the ordinance on first reading was moved by Mucciolo, seconded by Meadows.

Norenberg summarized the needs for the proposed request to apply for and accept grant funding from the Ohio Historical Society, in order to provide matching funds for the Underground Railroad project in the amount of \$20,000. Acceptance of the award would allow the City to commence with plans to complete phase II of the project. It was noted that Carrie Hand, the Economic Housing Officer and Wanda Davis, the Assistant City Manager and Human Resource Administrator, were in charge of preparing the grant application and were there to answer questions.

Davis updated Council with a status report on the project as it stood at this time and presented information on the need to raise \$330,000 in matching funds. Broadwell asked if the \$20,000 was the most that the committee could apply for. Davis responded in the affirmative.

A motion to suspend the rules requiring three readings and to elevate Ordinance No. 13-49 to emergency for the reasons stated in Section 6 was moved by Mucciolo, seconded by Meadows.

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

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

(B). ORDINANCE No. 13-50 AC CMS: An Ordinance Amending Ordinance No. 97-28 AC CMS, as Amended, Which Established Fees and Charges for Various Services, Permits and Licenses of the City of Oberlin, Ohio and Declaring an Emergency. (1st)(E)

Roll Call: 7 Ayes 0 Nays Motion Carried
(Amended)

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

(C). ORDINANCE No. 13-51 AC CMS: An Ordinance Accepting the Bid of Warren Fire Equipment, Inc., of Warren, OH for Self-Contained Breathing Equipment for the Oberlin Fire Department and Declaring an Emergency. (1st)(E)

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

Roll Call: 7 Ayes 0 Nays Motion Carried

The Clerk read as directed.

Motion to approve the ordinance on first reading was moved by Mucciolo, seconded by Meadows.

Norenberg provided the history of the proposal and deferred the discussion to Fire Chief Dennis Kirin.

Chief Kirin noted that the grant money awarded to the City would cover 95% of the cost of the self - contained breathing equipment. The equipment upgrade is less cumbersome for fire fighters and meets current National Fire Protection Association (NFPA) Standards.

Mucciolo asked how much the second bid was for. Kirin remarked that there wasn't a second bid for this item. The manufacturer sets the price on this product not the vendor. As a result the price would be the same no matter which vendor is used.

Peterson exited Council Chambers at this time.

Burgess asked if the current units had any resale value. Kirin said they did offer them in the bid packet as trade-in but no one will deal with them. He is currently exploring different ways to dispose of the units under the terms of their fire grant.

A motion to suspend the rules requiring three readings and to elevate Ordinance No. 13-51 to emergency for the reasons stated in Section 3 was moved by Soucy, seconded by Broadwell.

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

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

(D). ORDINANCE No. 13-52 AC CMS: An Ordinance Accepting the Bid of Don Mould's Plantation, Inc., of North Ridgeville, Ohio, for the West College Street Sanitary Sewer Improvement Project and Declaring an Emergency. (1st)(E)

Meadows 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 to approve the ordinance on first reading was moved by Mucciolo, seconded by Broadwell.

Peterson reentered Council Chambers at this time.

Norenberg provided background. The proposed project was initially discussed earlier this summer in great detail as a combination with the sanitary sewer and streetscapes project on West College Street. After two failed attempts to bid this project as a single unit, the project was separated into three separate bids. The first bid to be awarded is for the Sanitary Sewer Improvement project the other bids will be awarded later.

Burgess questioned the timing of the project and asked what the impacts would be to the downtown business area. Baumann remarked that, due to the poor condition of the sanitary sewer, this work should have been replaced when the City did a large project in the downtown area back in the 1980's. This is going to be a disruptive project for sure and if they could avoid doing it, they would. Breaking the project into these three components may add additional scheduling challenges Business owners are being apprised of the situation. Burgess said that it was his understanding that the merchants agreed to this being done in the summer. Baumann remarked that it was his impression that merchants were on board because they understood that it was work that needed to be done. Soucy asked how long it would take to complete this project. Baumann remarked that the goal is to get this done in less than three weeks, weather permitting. The exact schedule is unknown until they schedule a preconstruction meeting with the contractor.

Janet Haar, Director of the Oberlin Business Partnership, noted that letters had been sent out to downtown merchants who would be impacted by this project and that several conversations have been held as well. Unfortunately, now that the project is about to happen, there are people who are now beginning to complain. They are concerned that with this being the fourth quarter of the year; this could break them. They know that this needs to happen, but the timing is an issue. She recommended that Council keep the lines of communication open and make sure that every effort is being made to accommodate potential customers with proper signage and direction on where to park and how to park. Broadwell asked if parking would still be allowed on the north side of College Street once the trench goes in. Baumann outlined a hypothetical schedule for getting the pipes laid down. He remarked that the project will move in stages so as one stage is complete they will move on to the next one, all the while parking will be available depending on which stage of the project is being worked on. Norenberg called on residents to spread the word as well and to continue to show support to the shops and businesses on this block to make this a smooth transition. Mucciolo asked who the Oberlin Business Partnership would talk to at the City about developing wayfinding signage. Norenberg remarked that they should continue dealing with the Planning Director and the Public Works Director. Meadows asked if the City was responsible for putting up the signage that will inform shoppers that there are rear entrances to these stores. Baumann remarked that the provision of additional signage is not part of their construction contract. However if Council was asking the City administration to work with Oberlin Business Partnership to offer this service then they could do so. The City already has and maintains certain signs that direct the traveling public to off-street parking. Ongoing discussions with Main Street Design Subgroup have provided some options to make that parking signage better. In half of those instances it involves putting those signs on buildings because otherwise, they really can't be seen because of the geometry of the streetscape. Meadows remarked that she wasn't asking the City to do it she was asking whose responsibility it was to see that the signage is provided. Baumann remarked that it is a collective responsibility between the City and Oberlin Business Partnership. Burgess asked if they could coordinate this project with the College's fall break. Baumann remarked that if they postponed the project any further they wouldn't be able to get the paving project completed on time. Rimbart said he would like to keep this as simple as possible for the residents.

Mealy said it is never a good time to repave a street in the middle of downtown, but this is the best time to get this project done. In the summer time the sidewalks are used by pedestrians quite a bit and in the springtime you

would be competing with Commencement. The fall is the best time. He would recommend that Council pass the ordinance on emergency and get this work done, before the holiday season.

Rimbert asked for a starting date. Baumann said if they are able to get the preconstruction meeting set up this week they will have an idea of when the contractor can get started.

A motion to suspend the rules requiring three readings and to elevate Ordinance No. 13-52 to emergency for the reasons stated in Section 4 was moved by Meadows, seconded by Mucciolo.

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

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

(E). ORDINANCE No. 13-53 AC CMS: An Ordinance Accepting the Bid of Precision Paving, Inc., of Milan, Ohio, for the West College Street Pavement Improvements Project and Declaring an Emergency. (1st)(E)

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

Roll Call: 7 Ayes 0 Nays Motion Carried

The Clerk read as directed.

Motion to approve the ordinance on first reading was moved by Broadwell, seconded by Mucciolo.

Norenberg explained that this is the pavement project that he referenced during the previous discussion. This proposal includes the result of the bid that will allow for pavement improvements over the sewer project, this will include select re-grading of the finished pavement to provide ADA-Compliant accessible parking spaces and a new accessible ramp at the east end of the street, and the improvements will also provide an area for bicycle parking. Finally the bid also includes an Alternate that will include angled parking on the North side of the street adjacent to Tappan Square. It was noted that if Council decided not to do the alternate there is a different low bidder which is why this is not before Council for an emergency. Staff seeks guidance from Council in how it desires to address the parking situation on the North side.

Mucciolo said he would like to hear from Oberlin Business Partner at this point.

Haar remarked that the Oberlin Business Partnership would like to go on record this evening with a statement on their recommendation to add diagonal parking on the North Side of West College Street. While they still contend that diagonal parking would help alleviate some of the parking challenges in Oberlin, and while the cost factor to add those spaces during the time that construction is already taking place is greatly reduced, they are withdrawing their recommendation that the construction include constructing diagonal parking on the North side of West College Street. This was being done not because there is consensus that more parking spaces would not benefit the City, but because, based on the reduction in possible spaces from ten (10) to five (5), and their research into parking management, signage, and the benefit of creating bicycle parking that could add eight (8) to sixteen (16) bike parking spaces in a current one car parking space. OBP believes there are less controversial and ultimately more beneficial solutions to parking management in Oberlin; solutions that will benefit businesses, pedestrians, bicyclist and enable downtown Oberlin to grow and prosper.

Soucy said she appreciated the position of the Oberlin Business Partnership and admitted that she had similarly changed her position since they last discussed this item as well. She felt that it was important to support

merchants downtown, so when they say that they need angled parking, her instinct is to support their request. But she does feel that, at this point, so little is achieved when you get to five (5) parking spaces and consider the opposition to it, that it doesn't make sense. She believes that they do have a parking problem in Oberlin and this problem has to be addressed with the College at the table. In the future as they look ahead to the Gateway project, that will be the time that they should address a serious solution to the parking issue. She is not abandoning the merchants need for more parking but adding five (5) spaces is not the solution.

Peterson reiterated remarks from Soucy stating his doubts about the alternate portion of the bid. Norenberg remarked that this ordinance would need to be defeated tonight and then at the next meeting they will reintroduce a new bid award to a different low bidder. Burgess said he would like to see a dedicated area for bicycles. He would like to impress on the City Manager that if there is going to be dedicated parking then bikes would not be permitted on the sidewalk. They would expect them to be in the designated parking area. Haar remarked that the discussion of bicycle parking continues to evolve. The goal is to not permit bicycle parking on the sidewalks when there is designating parking. They will have a better discussion of what that will look like as they continue to work out the details.

Discussion ensued regarding the process for defeating the ordinance. Law Director Clark remarked they would just need to vote the ordinance down. Rimbart said he is still taking public comments.

Mealy, 328 South Professor Street said that it was a smart plan not to try to work on both sides of the street. He questioned whether or not the pavement ordinance would be able to come before Council so that the project gets done prior to mid- November, if this is defeated. Baumann said if Council defeats this ordinance then a different bid ordinance would come before Council by the next meeting.

Matt Adelman, 26½ South Main Street thanked the City for considering the diagonal parking idea initially. He hoped that Council would be mindful of some of the other ideas that are coming forward as it relates to on street bicycling parking, back-in angled parking, and so on.

Elizabeth Rumics, Hollywood Street said she was very happy to hear that the Oberlin Partnership has withdrawn its original recommendation to include diagonal parking as part of the design element. The gaining of few parking spaces for the mutilation of the Square would be in her opinion a poor bargain for the City. Though she agreed that the downtown merchants needed more parking she hoped that this would be the end of angled parking on the North side of West College street because that is a very beautiful draw for people coming into Oberlin.

Roll Call: 1 Aye 6 Nays Motion Defeated
(1st, Reading) (Mucciolo)

(F). ORDINANCE No. 13-54 AC CMS: An Ordinance Authorizing the City Manager to Submit an Application to the District 9 Public Works Integrating Committee for Ohio Public Works Commission Funding for the South Professor Street Improvement Project Phase II and Declaring an Emergency. (1st)(E)

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

Roll Call: 7 Ayes 0 Nays Motion Carried

The Clerk read as directed.

Motion to approve the ordinance on first reading was moved by Broadwell, seconded by Peterson.

The City Manager deferred the discussion to Public Works Director Jeff Baumann. Baumann provided Council with an overview of the proposed project. Baumann noted that this project would extend the improvements

currently under way on South Professor Street down to Hamilton Street. It would also extend the bike path extension from behind the Hamilton Street Recreation Complex storage building east to Splash Zone to the intersection of Professor and West Hamilton. The Planning Commission made a recommendation several years ago that a continuous off street pedestrian pathway should be constructed. It seemed to make sense to him that if they were going to continue to extend this project to Hamilton Street and to continue the pedestrian bicycle-friendly improvements along that corridor, that they should make that connection west over to the Recreation Complex. He met with the City Engineer and the Director of Lorain County Metro Parks and he believes that the Metro Parks have agreed to contribute up to \$25,000 towards the actual cost of constructing a path along that frontage.

Burgess remarked that he was looking at the map for the designated routes around the bike path. He asked if it would be possible to put a small spur from the Washington Circle South to that proposed bike path and then another one from Roosevelt Court south. There are no sidewalks along Hamilton Street in that area. It would be easier for the people in those neighborhoods to access the bike path if there was a connection from their street to the path. Baumann remarked that he would need to get with the City Engineer to do the research on the possibility of having this done.

Rimbert said with Council’s permission he would like to give some direction to have staff look into this. He felt that the more bikes that they can keep off of Hamilton Street the better. He would prefer to cut through a residential area like Washington Circle.

Mealy said that he has always wanted to ensure that we have all of these connections to our rather well laid out parks and recreation areas. He looked forward to seeing the project completed.

A motion to suspend the rules requiring three readings and to elevate Ordinance No. 13-54 to emergency for reasons stated in Section 5 was moved by Mucciolo, seconded by Burgess.

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

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

(G). ORDINANCE No. 13-55 AC CMS: An Ordinance Authorizing the City Manager to file a Joint Application with the Lorain County Commissioners to the District 9 Public Works Integrating Committee for Ohio Public Works Commission Issue I Funding for the Pyle South Amherst Road Bridge #0014 Replacement Project and Declaring an Emergency. (1st)(E)

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

Roll Call: 7 Ayes 0 Nays Motion Carried

The Clerk read as directed.

Motion to approve the ordinance on first reading was moved by Mucciolo, seconded by Broadwell.

Public Works Director, Jeff Baumann provided an overview of the proposed cooperation project between the city and the Lorain County Commissioners. The City will appear as the lead agency for application purpose. Whether or not this project gets funded in 2014, it would put us near the front of the line in 2015. Most people who have looked at the bridge would agree that the time where it will need to be replaced is fast approaching.

Burgess asked if the bridge would be wide enough to accommodate a bike lane or a sidewalk. Baumann said that currently the pavement width is only 17 ft. Staff has asked them to widen the bridge to accommodate bike lanes across the bridge from the bike path in either direction. They would have to pick up the rest of that probably with the sharrows signage as pavement markings along Pyle/South Amherst at such time as it was repaved in the future. Burgess stated that he felt that it would be useful for them to plan ahead.

A motion to suspend the rules requiring three readings and to elevate Ordinance No. 13-55 to emergency for reasons stated in Section 6 was moved by Broadwell, seconded by Mucciolo.

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:

- (A) A Motion authorizing the continuation of a monthly payment of \$650 to the Oberlin Law Director to offset the cost of Oberlin office space and overhead beginning September 1, 2013.

Clark noted that when he was first appointed, Council had generously granted a stipend to help offset some of his overhead. At that time he was sharing office space with his predecessor Eric Severs. The bulk of that money went to rent and the balance went to other miscellaneous operating expenses and overhead. Since that lapse of the four months he has now moved into another office in Oberlin that is leased by his law firm for \$1800 a month plus utilities. In his capacity as Law Director, utilizing that space, office resources and personnel he is drawing on the firm for expenses that are associated with his work for Oberlin. As a result he has asked that Council consider renewing the assistance with that overhead effective the first of this month. He can say that because of his association with the law firm there are certain expenses that the previous law director had that he will not need. He believed that he could certainly offset most of this amount if not all of it through the elimination of certain charges. In addition there will be no charges for copies, faxes, or long distance calls. So he would think that this would be fully paid for through offsets and reductions of the cost.

Rimbert handed the gavel over to Vice President Soucy and left Council Chambers.

Meadows asked if this would be an ongoing expense at this time or is it going on to a defined time. Clark remarked that the motion didn't have a specified end date.

The above stated motion was moved by Mucciolo and seconded by Broadwell

Burgess questioned whether or not this would be considered a benefit subject to taxation. Talarico noted that this would be treated as an offset of expenses where the Law Director will invoice the City on a monthly basis.

Roll Call: 6 Ayes 0 Nays Motion Carried

- (B) A Motion to adjourn to executive session for the purpose of discussing pending and imminent litigation.

Motion to adjourn to executive session for the above stated purpose was moved by Broadwell and seconded by Mucciolo.

Roll Call: 6 Ayes 0 Nays Motion Carried

9. PUBLIC PARTICIPATION: None

10. ADJOURNMENT:

Being that there was no further business to come before Council at this time the meeting adjourned at 9:58 p.m.

Attest:

BELINDA B. ANDERSON, CMC
CLERK OF COUNCIL

RONNIE J. RIMBERT
PRESIDENT OF COUNCIL

APPROVED: 10/07/2013

POSTED: 10/08/2013