



Minutes of the Regular City Council Meeting

Held on Monday, September 16, 2013

7:00 p.m.

1. COUNCIL BUSINESS

- (a) Call Regular City Council Meeting to Order and Roll Call – 7:14 p.m.

A regular meeting of the Oberlin City Council was held on September 16, 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 7:14 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 – None.

- (c) Proclamation– Public Power Week

Members of Council heard a proclamation read by Councilor Scott Broadwell. The reading of the Proclamation was followed by general remarks from Doug McMillan regarding the upcoming Public Power Week Celebration.

PROCLAMATION

***PROCLAMATION RECOGNIZING PUBLIC POWER WEEK, OCTOBER 6-12:
OBERLIN MUNICIPAL LIGHT AND POWER SYSTEM TELLS COMMUNITY ABOUT THE VALUE OF
PUBLIC POWER***

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;

NOW, THEREFORE BE IT RESOLVED: that OMLPS will continue to work to bring lower-cost, 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 6-12 be designated the 27th 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 6-12, 2013, 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 16th day of September 2013.

Ronnie J. Rimbart
Mayor/President of Council

Talarico stated that the City's insurance for "Legal Liability" and "Third Party Claims" includes coverage for "Wrongful Acts". In a nutshell, this provision of our policy covers the City if we make a mistake, such as an actual or alleged error, misstatement, act of omission, neglect or breach of duty. A key exclusion to our coverage is a willful act that we know is incorrect. Our insurance administrator contacted him, as they monitor news and events in communities they serve, to let him know that he had seen the article regarding the gun ordinance in Oberlin. Although he is sympathetic to our concerns, he indicated that we might have coverage issues if we do not correct the ordinance and subsequently an outside party decides to file suit against the City. Depending on the allegations in a potential lawsuit against the City, and the circumstances surrounding them we may not have coverage. If no coverage exists, then the City would bear the costs of any potential litigation.

Law Director Jon Clark remarked that the City has an ordinance on its books that is in conflict with state law. The ordinance does not prohibit the possession of firearms in municipal parks and has been held to be a general law. Because our ordinance is in conflict with the state law, our ordinance cannot be enforced. The state law also provides that, in addition to any other relief provided, a court shall award costs and reasonable attorney fees to any person, group, or entity that prevails in a challenge to an ordinance, rule, or regulation as being in conflict with that law. As we have seen over the past two weekends, not all possession of firearms is illegal in our parks. The ordinance under consideration amends our codified ordinances by prohibiting the unlawful possession of firearms in our parks and recreation areas. In passing this ordinance, Council will you do not make something legal that is now illegal. Council must decide whether there is any reason to maintain an ordinance that is unenforceable; that is in conflict with state law as it pertains to the possession of firearms and which could be a gateway to litigation which would involve the litigation of issues that have already been decided by the Ohio Supreme Court. Clark presumed that no one in this room wants guns to be carried in Oberlin's parks and perhaps there is an ultimate solution to that issue. However, there is no legal reason why an ultimate solution must be reached as a condition to the passage of the ordinance now before Council. If the proposed amendment to the ordinance fails, then the City is open to a lawsuit in which the issues will be framed, not by the City but by the gun rights proponents, and for which we would likely have no insurance coverage. If the proposed ordinance is passed tonight, then the ordeal that has faced this community over the past several weeks will abate, and Oberlin can then turn our attention to other new and innovative ways to assure the safety of its children and others who chose to enjoy our parks.

Chief Tom Miller reiterated that whether the ordinance is revised or not it will have no impact on guns in the parks. The state has determined that it is legal for guns to be allowed in public places including in parks. Even if Council should decide not to revise the current ordinance and continue to restrict guns from the park, enforcement would be impossible. For us to detain someone for an ordinance that we know is contrary to state law would certainly open us up to liability. Maintaining this ordinance will not satisfy Council's desire to prohibit guns in the park because it will have no impact on law enforcement's ability to remove anyone from the park. The Police Department's role in this community is to protect citizens and to enforce laws. A police officer is to be visible when necessary and non-confrontational in dealing with the public. The subjects who assembled in the park with their weapons (for the past two weeks) whether we agree with it or not, are within their rights and according to the state have broken no laws yet they have received keen scrutiny by the Oberlin PD. For the first gathering on September 7, activity was closely monitored. On the second gathering, this past Sunday, officers were stationed in the park ensured a peaceful gathering. This decision to place officers at the park was because the Police Department anticipated a little larger crowd based on Facebook postings and mailings and thought there might be a possibility of confrontation. Miller cautioned that expectations from the Oberlin citizenry, and members of Council too, should be realistic. They should not expect enforcement action if there are guns in the park, providing that there are no other violations. Use of the Police Department to scrutinize law abiding citizens simply because their beliefs are different than ours is frowned upon, especially when these citizens have committed no infraction.

Soucy stated that one thing that has characterized Oberlin throughout our history is a strong sense of moral indignation when confronting wrongs. Tonight we are all united by this sense of moral indignation at the state's co-opting our right to control the quality of life in our city, and by the appearance of guns in our parks. The

question is, how do we follow our moral outrage with realistic action that leads to change. As a member of City Council, I feel that my first obligation is to protect the citizens of Oberlin from physical harm. My second obligation is to protect the City from fiscal damage. Once those goals are secured, I am obligated to finding ways to change those laws that currently allow Oberlin to be threatened both physically and financially. I do not want to table this issue because I want the gun carriers out of our town as of tonight. They have escalated from handguns to knives and rifles, and their supporters are traveling from as far away as Cincinnati. This is a tragedy waiting to happen. These dangerous rallies will continue unless we act tonight. I cannot support the City's going to court alone. This is asking me to go against an outcome guaranteed by the legal precedent established by both the Clyde and Cleveland cases. It asks me to go against the professional advice of our Law Director, and it asks me to go against the advice of our State Senator Dan Ramos who reminded us that the courts and State Legislature are far more conservative than when the Cleveland and Clyde cases were adjudicated. (Incidentally, the two dissenting judges in those cases no longer hold seats on the State Supreme Court.) I refuse to give the gun owners the chance to prolong their rallies and to revel in our defeat in this same court of law. I am not a fan of symbolic defeat. I believe we should pass this ordinance to bring us into compliance with state law, to halt the dangerous rallies in our parks, and to protect the City from a damaging law suit. Immediately following passage of the ordinance, we will pass a resolution of protest against the state laws governing guns in parks. Finally, this Council is committed to forming alliances with other cities and towns to challenge the state laws and to explore ways to permanently keep weapons out of our parks. With your help, we will not stop here.

Peterson stated that this is a heated and very passionate debate. He hoped that Council would give itself a little time to think of creative ways to address the issue of gun control in our City. Certainly no one wants to go through a long drawn out law suit that will likely end in defeat. It is hard to get over the provocative nature of the way in which this has been brought to the City. It is difficult to get away from the threats and bullying tactics that have been utilized by Second Amendment advocates. Oberlin should take the time to seriously think through this matter. He proposed that the ordinance be tabled for a specific amount of time, to give the City some time to figure out a way to avoid having to submit to these bullying tactics. If gun advocates believe that the ordinance in our books is a dead law and that Ohio State Law prevails, then what is being done to the City is nothing more than an effort to make us submit. Peterson remarked that the Oberlin community should take some time to be creative in its problem solving and to tap into that spirit that we all can brag about as a community and that we all can celebrate in word and deed. "Let's find a third path with this."

Broadwell concurred with earlier remarks from Vice President Soucy. He stated that this should be passed on third reading. Once they are in compliance, as distasteful as it may sound, they can begin to straighten this out. He believed that once they resolve this matter the gun advocates would no longer have a cause for coming into town. This doesn't need to be tabled. Discussion can continue on how to rectify this issue. He is tired of seeing people in our parks with guns. He seriously believes that they will just go down the road to the next town that they feel is not in compliance with State law.

Mucciolo asked if the loss of insurance coverage would be for the purposes of litigation only and other coverage – for infrastructure, for example- would remain intact. Talarico confirmed this was the case and the City would lose coverage if the amendment were not passed and a lawsuit were filed against the City pertaining to the gun rights issue. Mucciolo asked if our situation could be seen differently before the Ohio Supreme Court since our ordinance was in place prior to the passage of Ohio Revised Code (ORC) 9.68, unlike the City of Clyde who attempted to pass its ordinance after the fact. Clark said that he didn't think it would make any difference in the outcome. The Court has been very clear in its decision that ORC 9.68 is a law of general application. By definition this means that ORC 9.68 operates uniformly throughout the state and it is binding on all municipalities in the same way. There would be no legal traction in the fact that our ordinance predated the legal decisions made against the City of Clyde or related to the passage of ORC 9.68. Mucciolo directed a question to the gun advocates in the audience as to whether or not the passage of this ordinance would actually keep them out of the City of Oberlin.

Burgess said he spent the last two weeks in the parks with people who came into town to intimidate the Oberlin citizenry. The first weekend gun advocates came to town with handguns. The second weekend gun advocates showed up with semi-automatic assault rifles. He heard an interesting story that one advocate walked into Slow Train Café (who didn't put a sign in the window preventing those carrying guns from entering.) There were a number of people inside who left promptly. Burgess noted that our Codified Ordinances do more than keep us safe; they are a statement of principal for our community. They define the way that we want to live our lives. While the State Law is unjust, this can be seen as more than a legal matter, it is a moral matter. Oberlin is known for taking a stand. He also believed that if they changed their ordinance tonight and permitted guns in public parks, the gun owners would leave and they would go on to another City and do the same thing to them, they have been doing this for years, Oberlin is just one stop along the way. Ohioans for Concealed Carry have made it a point to intimidate communities one by one and then they came here, and we haven't been as intimidated as they expected us to be. He felt that the reason why this has become so blown up here in Oberlin is because they finally hit someone who is as stubborn as they are, and while we may not have the Supreme Court of Ohio on our side, there is overwhelming support from Oberlin residents who want us to fight this. He supports tabling the ordinance to allow the community time to come together and decide what they were going to do next.

Meadows said that she was in favor of changing the ordinance so that they can get on to doing the hard work. The hard work is determining the strategy that needs to be employed to address gun laws on a statewide level; one City could not change state law on its own. There are other cities that hold similar positions as Oberlin, and she has been in touch with some of them. By continuing the networking, hopefully they can do what is necessary to bring about a change on a statewide level.

Rimbert said they need to look at the bigger picture which is the need to take back "home rule." Community-wide leadership is needed to escalate this matter to the state level. Council was united in keeping guns out of the City parks, but they still have an obligation to the total community to protect and to serve the citizenry, and see to the financial well-being of the community.

Janet Garret, 208 Eastern Avenue said she applauds a lot of the remarks that she has heard from Council, especially the suggestion to resolve this issue creatively. This is a problem that requires some creativity and she wondered if anyone has contacted the ACLU to see if there is a legal avenue that hasn't been considered that can help the City in this case. She also wondered if they could spearhead a petition to place a referendum on the ballot either to allow for no guns in parks or to deal with the preserving home rule. She also wondered if it would be possible to pass an ordinance to require gun carriers to wear a party hat. It might be a ridiculous thought but it would still be in compliance of State law.

Sid Comings, 263 Elm Street, Apt 3 quoted a poem by Carl Sandburg called 'A.E.F.'

*"There will be a rusty gun on the wall, sweetheart,
The rifle grooves curling with flakes of rust.
A spider will make a silver string nest in the
darkest, warmest corner of it.
The trigger and the range-finder, they too will be rusty.
And no hands will polish the gun, and it will hang on the wall.
Forefingers and thumbs will point casually toward it.
It will be spoken among half-forgotten, wished-to-be-forgotten things.
They will tell the spider: Go on, you're doing good work.*

Comings remarked that the poet has pictured a time when there will be no wars. Comings recalled his response to this sixth grade assignment that of all of the poems this was his favorite as it seems to be the most hopeful poem written on this particular subject. Furthermore, it gives a solution to the problem in its most simple terms; put down your arms. The poem seems to say that there are better and more efficient ways of handling disputes than by violence. The gun hangs there as a reminder of the evil that once filled the world and the spider's

purpose is to encase it so that it can never be used again. He knows that there is a time and a place for guns but at this time he is still rooting for that spider.

Ronald Gibson, Lincoln Street said that he seconds the eloquent remarks of Madam Soucy.

Anne Conway, 137 Woodhaven Place said a gun has one purpose and that is to wound or to kill. If you carry a gun you are prepared at a moment's notice to kill. Some would have us believe that this is a normal state of affairs. We need to have guns with us at all times in case we need to kill someone. Conway emphasized that this was not the Oberlin that she wanted for her grandchildren. Far from making us safer, more guns mean more people harmed by gunfire. We can legally ban guns from our schools and libraries, so it makes no sense to allow them in the City parks. As a citizen of Oberlin she supports Council's original decision to ban guns in City parks and she regrets that the City has been placed in the no win situation. Oberlin has a long history of standing up for the common good, no matter what the cost. She questioned if Oberlin refuses to take a stand on this issue, then who will.

Jeff Garvas, president and founder of Ohioans for Concealed Carry, a nonprofit organization that represents the interest of Ohio's law abiding firearms owners, read a prepared statement into the record:

"In Ohioan's for Concealed Carry vs. City of Clyde we established a precedent setting case law that deemed Ohio Revised Code (ORC) 9.68 constitutional. The Ohio Supreme Court declared in that legislation that ORC 9.68 displaces local gun laws. Since that ruling the City of Cleveland attempted to challenge our precedent and failed. We have subsequently prevailed in an ORC 9.68 challenge against two other Ohio cities since that time. In this calendar year this Council has voted on fifty five (55) pieces of legislation and fifty one (51) of those were treated as an emergency to waive the three reading requirement. When it came to repealing ordinances that your Law Director advised you to repeal, you decided to drag this out for public hearings while kicking and screaming. Even your Police Chief said that there haven't been any issues with gun violence in the parks. In the process you have drafted a so-called resolution that still prohibits "possession" in conflict with ORC 9.68, while adopting an unconstitutionally vague reference to "illegal" firearms. The proposed new ordinance doesn't define what an illegal firearm is, and you are prohibited by ORC 9.68 from enacting an ordinance that does so. In essence, the very legislation that many of you, on this Council, want to vote against does absolutely nothing to bring you into compliance with the state law, because you have spent so little time looking at the actual issue at hand. Further, due to the politicizing of this information in the media, no one on City Council or in City leadership has realized that virtually every ordinance that you have on the books dealing with firearms possession, transportation, or sales remains in conflict with Ohio Revised Code 9.68. If you pass this ordinance tonight as it is currently written, you have done nothing to bring Oberlin into compliance with state law. In fact, your park gun ban ordinance has been unconstitutional since its inception and long before Concealed Carry was even licensed in Ohio. The Ohio Constitution Article I, Section 4, states; "...that the people have the right to bear arms for their defense and security..." That same Supreme Court that they have been talking about all night has ruled repeatedly that a complete and total prohibition on the possession of firearms is unconstitutional in Ohio. Oberlin's gun ban has been unconstitutional since it was enacted. Despite all of the objection to ORC 9.68, it should be mentioned that absent this provision and even if you were successful in convincing a court that it violated home rule, your park ban would continue to be illegal, due to the constitutional issues that I've just raised and the fact that it would conflict with other state laws. In 2004 when the Ohio Legislature enacted Concealed Carry, and long before ORC 9.68, it passed a law that affirmatively authorized concealed hand gun licensees to carry a firearm, and I stress these words "anywhere in this state." Any law you pass that contradicts this, is in conflict with state law. In its current form the legislation that you don't want to pass does not fix anything.

In addition, I would like to briefly address the rumblings of privatizing or leasing your parks. If this Council were to attempt to privatize your parks, there is a very likely potential that a developer would snatch up the property. Should you find a cooperative private entity that was the highest bidder, they would suddenly inherit

liability, as your tort protections as a government would vanish, putting parks at risk of being closed due to the cost of operation. If the City began financing the upkeep of the parks it would quickly become apparent that the parks were being publicly maintained – and OFCC would challenge the City's efforts as an end-run around Ohio Revised Code 9.68, which is well documented by these proceedings and by coverage in the media. Finally, if you believe that the legislature's intent is for a community to circumvent the restrictions enacted in ORC 9.68 with a lease of the entire park system to a cooperative third party so that you could post "no gun" signs while continuing to operate parks as if nothing has changed, you seriously misunderstand that section of law. This is akin to saying that we are going to lease the parks of the KKK so we, the City of Oberlin, can keep black people out of them. This approach would create a situation ripe for litigation that we would lead the charge on."

Burgess asked for the names of the two cities that Ohioans for Concealed Carry sued. Garvas remarked that it was Youngstown and most recently the City of Cleveland Heights.

Broadwell said that he would like to hear the Law Director's reaction to some of the legal points that were raised. Clark remarked that he was not prepared to respond to Mr. Garvas's remarks at this time.

Bill Jindra, former City Council member said that it was nights like tonight that make him happy that he is not sitting on the bench with the other Council members. He came to encourage Council to support the ordinance before it. Council took an oath to support the Constitution of the United States and the laws of the State of Ohio. It seems foolhardy to have a law on the books that contradicts what the state law says. As unpleasant as it may be to some people in the community, he felt that they needed to pass the ordinance. Section 927.26 of the Oberlin City Code indicates that it is a minor misdemeanor and nothing in that provision prevents violators from being charged under the Ohio Revised Code. In this instance it is unfortunate that they can't be because the ORC says that it is legally permissible to carry a gun in public parks. He reminded Council that on Tappan square it was not legal to carry a gun, because it was owned or leased by a private university. Jindra stated that he read in an unsubstantiated report on last Sunday's protest that the gun owners were met with signs that said: "Gun thugs, Fearful Cowards, No Respect for the American Democratic Process". He voiced his disapproval of this behavior. He found it unfortunate that persons who have opposing points of views were unable to have a discussion about guns without being called names. He was not as fearful of guns as most people because he has almost forty years of experience in law enforcement. When the lead-up to the concealed carry permit was in the process, he was one of the people most critical of that decision because he felt that the outcome was going to be disastrous. He would have to say that he is quite surprised that there had been very little problems to his knowledge with people who hold a Concealed Carry Permit. On any given day he processes a few hundred background checks through his work in Avon Lake for concealed carry permits. These people are very well vetted and a lot of cases they are people in the community of good standing who just for their own protection want to carry a firearm.

Steve Hammond, 140 East College Street commented that once again there was a mass shooting on the news. Every time this happens he gets frustrated because gun activists use situations like this one as an excuse to ban gun laws in order to protect our children. Tonight we are helping Council to help us do something. We can imagine that gun advocates will not come back, but they will comeback. Because whatever Council does tonight the citizens are going to work hard, with Council's help, to work on these larger issues. There are many fears that are uncertain, and for that reason he didn't envy Council. The citizenry is asking for a chance to find out if there are other solutions besides passing the ordinance and getting sued. He felt that people who have spoken prior to him were right; it is time for Oberlin to take a stand.

Tom Lock, 40 Colony Drive, spoke on behalf of the City's Human Relations Commission. The three members who were in attendance at the September 10th meeting voted to urge Council to defeat any changes to the present ordinance, and they also voted to encourage Council to find some other legal means to keep guns out of the City Parks. Locke further noted that, on a personal note, he had raised three children in the City of Oberlin and was currently raising his grandchild. He felt unsafe in the parks when the gun advocates are there and even less safe if the current ordinance was changed. This concern is underscored by the reports that he has heard from

trustworthy sources that on the first visit someone left ammunition unattended for a period of time on one of the tables in the park. Locke found it hard to believe that the gun owners were going to go away and leave Oberlin alone even if Council changed all of the laws in conflict with the Ohio Revised Code. He stated that when you give a bully what he or she wants they usually do not go away, they want more. Furthermore, House Bill 203 in Ohio would greatly relax the "Stand your ground" law in Ohio which currently limits "stand your ground" defense to your home or automobile and would sanction "stand your ground" defense anytime and anywhere, which leads him to believe that proponents of the bill not only want to be able to carry their guns, they also want targets.

Renetta Rimbert, 331 South Pleasant Street read a prepared statement into the record, she said:

"I am here before you to ask Council to put this to an end. I am stunned that so many people are asking Council and City officials to go against the law. I am against having guns in our parks as much as anyone else. But why are we going to try to fight a battle that will cost our city money, which we cannot afford and that cannot be won. The City is already facing a deficit for this year. There is a battle that can be won, that is Home Rule reinstated from the State. We need to take it to the state level. I will gladly join that battle, and I ask Council to pass the amended ordinance on the third reading, so that we can move on and not let them capitalize on our dime. Let's get it legal, and then let us go fight."

Timothy Hall, 21 Glenhurst Drive reminded Council and fellow residents that gun ownership was a civil right. It is protected by the second amendment to the United States Constitution and, as of recent federal court rulings, the second amendment protects gun possession not only in one's home, but also outside the home for purposes of self-defense. Furthermore, as he has argued in his own published work, a civil right is a moral issue. It is inappropriate for a state to prevent an individual from acquiring appropriate means of individual self-defense. It's true that protestors have come to Oberlin; but he would suggest that they were there because the town is wrong. The town's prohibition on guns is what has given rise to the protest. Rather than being victimized by outside forces you are being protested by people who are rightfully complaining about the town's excessive exercise of political power. Hall stated that it is entirely appropriate that home rule not be given the jurisdictions, precisely so that they won't violate the civil rights of the people who live therein. Having said all of that as a matter principle, the point about the law is straightforward. As a tax payer in the town, he would be extremely upset if the town were to engage in an attempt to defy the Ohio Constitution at his expense. Changing the ordinance seems to him, though impractical on other grounds, the right thing to do. He would also remind everyone that many other states in the United States have lived with legal regimes of gun ordinances much like the one present in Ohio and much like the one that now restricts towns from banning guns in parks. We can replace speculation with the evidence that exists from the long experience from these states. There isn't any significant evidence that those who possess guns legally are a danger to public safety. When gun advocates are carrying their guns in public areas, indeed quite the opposite is true. The evidence suggests, particularly for those who have been vetted and given carry permits, that guns enhance public safety. Indeed, it is one of the features of western political thought, that one of the most important elements that the State ought to protect is not only the safety of its citizens, but to respect the rights of individuals to defend themselves when public authorities are unavailable. He added that he was a firm proponent of changing the local ordinance so that it is in conformity with the Ohio Constitution.

Will McCracken, 43 North Park Street said that he had heard the discussions on each side of this debate. He felt like a Jew when the Nazis have come. It infuriates him, and he thinks that if we have no choice in this gun legislation then maybe we should go out and learn how to use a gun for when gun advocates come back again.

David Ashenhurst, Sumner Street read a prepared statement into the record:

"I have a concern not on the agenda tonight. I ask Council to consider adding repeal of Chapter 531 of the Oberlin Codified Ordinances to the agenda tonight under "Other New Business." Chapter 531 is found in Part Five, General Offense Code, and is entitled Nonreturnable Disposable Containers. It

was passed in 1974 and amended in 1978 and 1979. I think its repeal was last debated in the early 1980s, and I seem to remember reading that Council voted that night 4-2 to keep it. The third section declares "No person shall sell or possess for consumption any beverage in a nonreturnable or disposable beverage container." Violating the prohibition on selling such beverages is a misdemeanor of the fourth degree. The penalty for that is up to 30 days in jail and a fine of up to \$250 for a guilty individual, and a fine of up to \$2,000 for a guilty organization. Possession gets the perpetrator a fine of not more than \$10. The second section gives the City Manager or his/her designee the right of entry and inspection to see if any business in town is selling beverages in the prohibited containers. This ordinance goes unenforced, but not because it is unenforceable. Several people visiting yesterday earnestly insisted that mistakes are sometimes made, even here in Oberlin. What if they're right? Because beverage consumption of this sort isn't enshrined in the state constitution or any statute, any overzealous city official would not be found have to have interfered with my rights under our Codified Ordinance 525.13 if they DID decide to enforce it. And to my dismay, I've been unable to find state legislation rendering our Chapter 531 moot. I suggest the City consider confiscating all our recycling buckets and bins until this thing is settled, because some might say we're implying these soda cans are possessed legally. I don't think this would jeopardize our standing with the Clinton Climate Initiative, but just to be sure, I suggest everyone hold off pointing out this ordinance until it has been officially smothered. Shortly you will begin beating a dead horse. However that consideration ends, I hope you will consider my request later in this meeting. Because Chapter 531 is a 39-year-old LIVE ordinance, and as such, I submit, a dangerous ordinance -- surely more dangerous than some tiny portion, state-nullified nine and six years ago, of a 15-year-old ordinance you are considering amending tonight. Let the Can Ban be the only outdated law on our books repealed at this meeting, and let it be by emergency action so we can all sleep better tonight. Repeal Prohibition, Repeal Chapter 531! UNBAN THE CAN! ... and leave Chapter 927 alone."

Gary Whip, Director of Ohioans for Concealed Carry recalled several examples of random acts of violence that have occurred to women, while walking in a park in broad daylight. He further remarked that for the past two weeks some members of Oberlin City Council and activists in the community have tried to characterize this as a debate of guns near children. Some have been quoted as saying they have a right to "feel safe", as if a law prohibiting firearms in a small bubble of space has some direct impact on how "safe" someone actually is. For that reason the Oberlin Police Department did not establish a policy that firearms are left locked up in a police cruiser unless the call they are dispatched to sounds dangerous; because we know that a police officer can never predict when their job will take them into a life and death situation at a moment's notice. Do we call them paranoid or egotistical thugs? No, we respect the fact that police officers are armed because they face a real risk of deadly force being used against them daily. OFCC are not paranoid individuals; they are prepared. This Council has a statutory obligation to fix every Oberlin ordinance that is not compliant with the limits imposed by Ohio Revised Code 9.68 – including a better solution to the park issue than that which is before Council today.

Ann Pilisy, 207 Eastern Avenue said that she has felt the effects of gun violence in her life first hand. Two of her friends were killed by individuals who were safe gun owners for over forty (40) years. She recalled that at the beginning of the meeting President Rimbart advised everyone to turn off their cell phones. A simple safety would turn a gun off or a cell phone. However, both the President and Director for Ohioans for Concealed Carry completely disregarded the request to silence their phones and their cell phones rung during the Council meeting. She wondered if they placed their safety on their guns when they should and questioned the safety of the citizens when these individuals were in town.

Taylor Reiners, President of the Oberlin Students Rifle Association, 30 East Lorain Street said there has been a lot of discussion about whether or not guns should be allowed in our parks. However, he did not believe that was the issue at hand, the issue at hand is that the City of Oberlin has an obligation to its citizens to protect its tax

payers against costly litigation. As previously mentioned the precedent has already been set twice at the Ohio Supreme Court. He understood that people wanted to take a symbolic stand, but questioned if that was worth more than putting the money towards education or improving public safety. He further addressed comments made by Council and other individuals, who referred to the gun rights activists who allegedly went to the park, as bullies, and terrorists, among other things. He noted that at these peaceful gatherings none of this rhetoric was used by the pro-gun people. The rhetoric that is being used by the anti-gun people is not meant to further the discussion but rather to silence views with which they disagree.

John Bergen, 268 Goldsmith Street said that he is a College student who has been shaped and blessed by this town. Several issues were raised to counter earlier remarks made by a gun activist. In addition he petitioned to the members of Council that this was really not an issue about gun ownership or protection, but about priorities. The City of Oberlin has several areas in need of attention such as providing better education, addressing the issue of poverty, and encouraging better business growth; these areas should be taken into account as Council weighed its options on whether or not they should pursue litigation. During his two years in Oberlin what he has seen is that Oberlin responds creatively to these types of situations. He offered his support to table this ordinance thereby allowing Council more time to address this issue.

Marty Buck, 60 North Cedar Street reminded Council that every 7 hours a child or a teenager is killed accidentally or by suicide with a gun. He listed several scenarios that didn't end well.

Michael Saber, 221 West College Street said that a lot of vague discussion is going on concerning what the consequences might be if Council decided to table this ordinance. He felt that Council might have cause for concern but it was his opinion that Council really did not have a clear picture of what might happen if they made the choice to table this ordinance. He noted that the president of OFCC read several provisions that were still out of sync with the Ohio Revised Code which gave him cause to believe that the group had no desire to leave until all City ordinances pertaining to firearms conformed to the State Code. He urged Council to table the ordinance to get some more data. Xavier said the City Code had been noncompliant for seven years. More time was needed.

Reverend Nancy Roth said one of the reasons why they moved to Oberlin from the New York City suburban areas was because of the ethos in Oberlin of its history. Oberlin citizens stood up for African Americans, they defied the runaway slave act, they have marched for peace for women, and for all sorts of rights. We need to honor those who care about their rights as gun owners and respect their attitude. But on the other hand guns do not feel like part of this ethos. She read a letter from Patrick McGowan-Doyle, which stated:

"Considering the issues concerning Ohio's gun laws and the reluctance of Oberlin City Council to engage in a legal battle with the gun activist, let me suggest the following: given that some consider our parks to be dangerous places that require one to be armed to visit, let's redefine them as places where peace prevails by planting peace poles in every park. Peace poles are hand-crafted monuments erected the world over as international symbols of peace. Their purpose is to spread the message may peace prevail on earth in the languages of the world. Peace poles will welcome park visitors in several languages and announce Oberlin as a place that welcomes and celebrates all."

Roth said that when she read the letter she found that idea to be very welcoming, and she felt that they could get started on that change of mood in the park as she hoped that Council would consider tabling the motion for now and listening to more ideas from the community.

Charles Dial, 26 Robin Park Blvd said that he has been a gun owner since the age of 14, but he hadn't fired it in 40 years. As an air force officer he commanded authority over more explosive force than what was used by all the armies and navies in history up to that time. The idea of allowing bullies to bring guns into the parks as a test of constitutional rights, he finds absolutely reprehensible. He urged Council to consider this possibility, keep the law on the books, but make it moot through legal creativity. There were plenty of good lawyers that can help

Council do this. It has been pointed out that Tappan Square is exempt from their invasions with guns because it is controlled by the College. Perhaps some kind of a civic organization could wind up owning the parks or leasing them. The lease could contain a provision for cancellation if it didn't work out. He was not a lawyer but he had great respect for what legal creativity could do in this situation. This is why more time is needed to think about this and come up with a reasonable solution. Additional remarks were made on doing something about stopping the mentally ill from owning a gun. One possibility would be to require a psychological evaluation for people to carry guns in the park. He suggested that the fanatics on gun laws go back and read the second amendment of the Constitution which says: In order to maintain a well-regulated militia the right of the citizens to bear arms shall not be infringed. It is talking about citizen soldiers being members of the militia. It is not talking about the ability to shoot up a park.

Tony Mealy, 328 S. Professor Street said he was also a former law enforcement officer like former Councilman Bill Jindra. He is for more gun control because not everyone gets to have a gun. Regardless of what happens, state law will not change. It will still be the ordinance and the law that you cannot discharge a weapon within the municipal or the corporate limits. A bullet travels more than one mile and it will travel a 1,000 ft/sec and will be lethal at that range. It has been less than five years ago that another chairman of Council discharged a weapon in a crowded residential neighborhood. This was less than a thousand feet from four churches, a senior center, just a half block away from several City parks and the bike path. There was no outrage that he heard when that happened. Council needed to act responsibly, and what would be responsible is for Council to rescind the current ordinance. What would be irresponsible is to table this ordinance.

David Hill, Senior Pastor of Oberlin United Church of Christ thanked Council for being there and for wrestling with the gun issue. He urged Council to table the ordinance for a set period of time so that the community could have wider discussion about this so that they can hopefully all reach consensus. He was open to reconsidering his feelings on this matter if they could talk about it and come up with a comprehensive plan for how we are going to deal with this. This is not just a pipe dream. There are already four clergy people who have already met with him, including Pastor A.G. Miller, Pastor Lawrence Nevels, and Pastor Steve Hammond, who are prepared to organize community forums for this to take place. They would certainly invite Council to attend to listen. They would urge Council to table this ordinance as, it is clear that more discussion is needed. There are some facts that still remain unclear, but more importantly, the will of the Oberlin people needs to be clarified. Council are our elected representatives. He felt it was important for Council to give as much time as possible to fully understand where the Oberlin citizens are coming from. He would also like to state that there are several folks here tonight that seem to be very afraid of a lot of things. Fear is not mastered by having a gun. Hall noted that as he looked around the room well over a third of the people in the room, were people of faith, who placed their trust elsewhere. He has lived in major cities and has traveled in third world countries and he has never felt the need to have a gun. Lastly, he would like to extend an invitation to those here tonight from other communities to get to know our community better. He offered to personally take gun advocates through this town, and through beautiful historic First Church. He only asked that they leave their guns in the car.

Michael Fritz, 309 Reamer Place offered his support to comments made by Mr. Peterson and Mr. Burgess to table the issue so that we will have more time to come up with a solution that we haven't thought of yet. He noted the First Amendment says that Congress shall make no law abridging the freedom of speech, but he cannot yell fire in a crowded movie theatre if there is no fire, and he may not advertise that a sugar pill cures cancer, so that's not 'no law'. The Second Amendment says that the right of the people to keep and bear arms shall not be infringed, but he may not bring guns into a school or into the airport, so how about a City park or a playground where kids gather. He knows what the state has said and what the legal precedent is, but Oberlin has a tradition of passion and creativity and he felt that they needed a little bit more time to figure out how they can help lead the change statewide and nationwide. Reasonable people can differ on these issues and they do.

Brian Kuzawa, 808 State Route 58 said that he would like to congratulate the town of Oberlin for always being at the leading edge and their great history for noble causes. He understands that Chief Miller and his law department will do the best that they can to protect everyone in this room if need be. The problem is that you

never know when a situation will arise where you will need to defend yourself from some crazy person at a moment's notice. He remarked that he wasn't afraid of this, because he was confident in his own ability, but he liked the idea of having a stronger option besides breaking his hands and his arms trying to defend his children. The only person who is responsible for each person's personal defense is that person. As opposed to wishing for a way for peace, which he wished for as well, they have to deal with the fact that there is always the possibility that someone is going to go into a gun free zone, like NAPSE over in Washington D.C., and shoot people. People should have the opportunity to stop someone from harming their loved ones. He thought that it would be nice for Oberlin residents to have that choice.

David Noice, 6532 Birch Park Drive in Galloway, Ohio said that earlier last week an attempt at comedy was released on You Tube by comedian Sarah Silverman. She decided to poke fun at the NRA by declaring that she was going to start the black NRA and that we should arm all young black males. He was not a member of the NRA and he found it offensive that she felt that the NRA or anybody is against arming any law abiding citizen. This is about freedom and choice. This is not about a city that wants to control its citizens. That word control has been used several times tonight by Council members. Council should be supporting the freedom of its citizens. He then addressed several misconceptions dealing with hand gun rights and the difference between the language used for the United States Constitution, which references the right to bear arms for the militia and the Ohio Constitution which is more specific, which references the right to bear arms for the people. He said this is not about fear; it is about randomness and the unknown. Is a gun a magic bullet? No it is not, it is a tool like insurance for your car. It is something that you have and hope you will never have to use. This is about his desire to have the freedom to be able to attempt to protect himself, his family and those that he holds dear, restricting that choice in any way is to take freedom away from citizens.

Mucciolo said the reasons he had heard from Council for not tabling the ordinance were a desire to remove the threat of lawsuit, and a desire to have the demonstrators leave the parks. Based on the new information provided by the President of Ohioans for Concealed Carry, it sounded like the Ordinance before Council at this time doesn't bring the City Code into compliance with ORC 9. As a result he would like to move that Ordinance No. 13-44 AC CMS be tabled until their first meeting in October, the motion was seconded by Burgess.

Roll Call: 3 Ayes

(Table) (Mucciolo, Burgess, Peterson)

4 Nays

(Broadwell, Soucy, Meadows, Rimbart)

Motion Failed

Law Director Clark remarked that there were other areas in the City's codified ordinance that Walter H. Drane, has suggested that we look at. He was not sure if the sections dealt with handguns in parks directly, but they did deal with other aspects of gun regulation. He felt that these sections should be reviewed and corrected if necessary. The same would hold true for the proposed ordinance. He remarked that if the ordinance before Council was found not to be in compliance with state law then they would fix it. But they can't do everything at once.

Soucy remarked that one of the things that she would like to clarify is that passing this ordinance in no way stifles a creative solution. If anything, it frees them up to get busy with those solutions immediately. She was in favor of leadership by our clergy, individual meetings in neighborhoods, and additional considerations from all of the leaders in our community. It's been posed that if we don't table this, we can't have further discussions, but of course we can. And, of course, this community will continue to seek creative ways to address this debate. This work has already begun. One reason we took this out of emergency is so that we would have three lengthy debates so that we could explore other possibilities. But the examination of these issues will not stop tonight; it will begin tonight regardless of what Council does.

Broadwell remarked that Council needed to know if the Law Director felt comfortable with passing the ordinance as written given the comments from the President of the Ohioans for Concealed Carry. Clark remarked that the City certainly wants an ordinance that puts them in compliance with state law. He felt that the proposed ordinance did. He agreed to review the comments raised by OFCC and if there were issues that were

not addressed by this particular amendment then they would fix those issues. He reiterated that a complete overview of the City’s codified ordinances as it relate to firearms, should be done. As previously stated, he would like to move forward with this issue, but didn’t think that tabling the ordinance would preclude Council from getting anything done. He wanted to get this taken care of and move on. Although he understood the desire to fight a legal battle, he didn’t see them winning this legal battle and he wanted to fight a battle that they could win.

Mucciolo said that he didn’t like empty gestures and he didn’t like being bullied, the latter being a reference to state law providing a financial threat against cities that maintained such ordinances. But his reason for tabling this item was not because he believed that by passing it discussions would end, but because in light of the information brought to Council by the President of the OFCC, it appeared that Council’s reason for passing it was a moot point, since they still would not be in compliance with ORC 9.68. It was his opinion that they still should table the ordinance.

Roll Call: 4 Ayes 3 Nays Motion Carried
(3rd Reading) (Meadows, Broadwell, Soucy, Rimbart) (Peterson, Burgess, Mucciolo)

4. NEW BUSINESS:

The Council president moved Resolution R13-09 up to the next item on the agenda.

(E). RESOLUTION No. R13-09 CMS: A Resolution Requesting the Ohio General Assembly Pass Legislation and Governor Kasich Sign Legislation to Amend the Ohio Revised Code to Enable Home Rule Cities to Regulate the Possession of Firearms in Public Parks and Declaring an Emergency. (1st)(E)

Prior to reading the Ordinance in full, the Clerk noted that ORC 9.28 had been referenced in instead of ORC 9.68 which is the correct provision. She stated that Council would need to amend the ordinance later in the meeting but asked that she be able to read the ordinance for the record as amended. Council concurred. Following those remarks the Clerk read the Resolution in full.

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

Norenberg remarked that during the previous debate there had been discussion of passing a resolution. This is a resolution that will be used as the catalyst to continuing the discussion within this community and like-minded communities across Ohio about changing state law.

Motion to amend all references of ORC 9.28 to ORC 9.68 was moved by Broadwell and seconded by Mucciolo..

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

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

Councilor Peterson exited the meeting at this time. Council President Rimbart handed over the gavel to Vice President Soucy and exited the meeting at this time.

(A). ORDINANCE No. 13-56 AC CMS: An Ordinance Accepting the Bid of DCH Landscaping, LLC of Medina, Ohio, for the Downtown Sidewalk Improvement Project and Declaring an Emergency. (1st)(E)

Roll Call: 6Ayes

0 Nays

Motion Carried

- Multiple Sclerosis Society thanking the City for supporting their fund raising efforts.
- Local Government Innovation Fund Grant Update.

8. FINANCE DIRECTOR'S REPORT:

- Buckeye Risk Management Association Health Consortium Updates on rate increase will be forthcoming.
- Reviewed levies that were scheduled to appear on the November ballot.

Burgess asked questions:

- Requested Status on Sustainable Reserve funding for the solar powered bike crossing signs at Professor St.
- Requested an update on the planning process for the Storm Water Utility in October.

Norenberg said he would touch base with staff and report back.

9. PUBLIC PARTICIPATION:

Tony Mealy, S Professor Street said he worked with officer Needham out at the Grafton Correctional Facility and how was a great guy to work with, he was always happy to see when Mr. Needham was assigned to his unit over the years. Mealy also revisited a previous discussion related to the issues with the City's infestation of vermin as a result of the meadows ordinance.

10. ADJOURNMENT:

Being that there was no further business to come before Council at this time the meeting adjourned at 10:01 p.m.

Attest:

BELINDA B. ANDERSON, CMC
CLERK OF COUNCIL

RONNIE J. RIMBERT
PRESIDENT OF COUNCIL

APPROVED: 10/07/2013

POSTED: 10/08/2013