

MINUTES OF THE REGULAR MEETING OF CITY COUNCIL

Held on Monday, July 13, 2009

6:30 P.M.

CALL TO ORDER

Mayor Barhorst called the regular meeting of Sidney City Council to order at 6:30 P.M. Monday, July 13, 2009. Vice-Mayor Pellman asked for a moment of silence in recognition of City employee Jeff Gates passing. The Pledge of Allegiance followed.

ROLL CALL

The following Council members were present and answered roll call: Mike Barhorst, Frank Mariano, Katie McMillan, Tom Miller, Mardie Milligan, and Terry Pellman.

Also attending was: City Manager Steve Stilwell, Law Director Mike Smith, Asst. City Manager-Administrative Services Tom Judy, Police Chief Kevin Gessler, Police Captain Mike Lundy, Fire Chief Stan Crosley, Deputy Fire Chief Rick Simon, Parks Director Duane Gaier, Public Works Director Bill Gosciewski, Finance Officer Ginger Adams, Revenue Collections Office Supervisor Susan Lukey, Utility Office Supv. Karen Berning, Underground Utilities Supv. Dave Wood, City Engineer Scott Landon, Transit Manager Deb Grogean, and Utility Director Chris Clark.

APPROVAL OF MINUTES

Minutes of the June 22, 2009 Regular Meeting of Sidney City Council were presented for approval.

Councilman Mariano moved, with Council member McMillan seconding a motion to accept the minutes as submitted. The roll call vote was unanimous and the minutes were approved.

INTRODUCTION – Police Chief Kevin Gessler

City Manager Stilwell introduced and welcomed Sidney's new Police Chief, Kevin Gessler, noting he is the fifth Sidney Police Chief since 1900. Gessler comes to Sidney from Wheeling, West Virginia, and Stilwell noted Sidney is very lucky to have him. Kevin remarked it is a privilege to be here.

Stilwell also thanked Captain Mike Lundy who filled in as Acting Chief, for a great job; adding he had served the City extraordinarily well.

CITIZEN COMMENTS

John Leese, 415 Fifth Avenue, voiced his concern with the City's practice of removing all garage sale signs from the right-of-way. Leese commented he feels garage sales are critical to people right now and while he understands why the City is removing these signs, he doesn't agree with

the practice. Leese added if the City considers the area between the sidewalk and curb to be City property, they should be maintaining it.

Mark Barga, 544 Culvert, commented he has taken his petition out for running in the November election for the 4th Ward Council seat, adding he isn't sure he agrees with Ordinance A-2613 recently passed by Council. Barga feels a modest remodeling project could escalate in cost once the Building Inspector saw the project and possibly found other violations the property owner needed to correct.

Barga also commented he felt the recent attention to garage sale signs is simply taking more and more freedom away from an individual; adding he feels it was foolish for the Code Enforcement Dept. to be out removing signs.

Mike Burns, 501 S. Ohio commented he had served on City Council from 1993 – 2001 and had also taking a petition out for the November election for the 4th Ward Council seat. He also voiced his interest in filling out the remaining term of Steve Hamby.

City Manager Stilwell advised Section 1149.15 of the City's Codified Ordinances states signs are not to be placed in the public right-of-way; noting these signs not only cause clutter, but can cause a sight visibility problem. Stilwell stressed the City is not against garage sale signs and identified those locations where signs would be permitted. He also noted Code Enforcement simply identifies these signs when they are conducting routine checks for all code violations. Stilwell advised the City placed an advertisement for three weeks in the local newspaper concerning placement of garage sale signs; adding the City has never fined anyone for this violation.

Councilman Pellman suggested Council review information concerning the public right-of-way at a future Council meeting.

Councilman Mariano indicated he had received some calls concerning these signs, with suggestions to allow 48 hours after a sale for signs to be removed; clarify rules for signs and the public right-of-way; and possibly preparing a hand out with information concerning placement of signs that could be given individuals who are planning a garage sale. Mariano commented while staff is simply doing their job, possibly it is time for Council to review this section of the code again.

INTRODUCTION OF ORDINANCES

(A-2616) AN ORDINANCE AMENDING SECTION 141.03(a)(6), SECTION 141.03(f)(19), SECTION 141.05(A), AND SECTION 141.10(b)(5) and (6) AND ENACTING SECTION 141.03(d)(5) and (6), SECTION 141.03(f)(2), and SECTION (141.10(B)(7) OF THE CODIFIED ORDINANCES PERTAINING TO CITY INCOME TAX

Finance Officer Adams reviewed proposed changes to the City's municipal income tax calculation and collection process; noting this review came as a result of the March Contingency Plan and the need to identify additional sources of revenue. She reviewed various possible

changes and identified mandatory filing and the disallowment of business/rental losses from federal schedules to offset wages, commissions, and other compensation and other taxable income. Adams explained both of these options and how they would impact the department. She noted mandatory filing is very common among other communities; noting from Ohio Municipal League data, approximately 90% of Ohio cities have this mandatory filing policy.

Asst. City Manager-Administrative Services Judy agreed these proposals will make some additional work for the department, but feels confident the added revenue will far outweigh the workload; stressing the department can efficiently handle this new proposal.

Councilman Pellman commented over all he feels this is a very good proposal; noting he still has reservations concerning dropping the offset of business and rental losses against wage income portion of the ordinance. He does however; agree with the mandatory filing section of the ordinance.

Council member Milligan questioned how many additional returns the mandatory filing could generate and Adams responded approximately 5000. Milligan commented she is not in support of this ordinance as she feels it will create too much additional paper work. She commented she would be more in support of finding another way to identify those individuals currently not filing tax returns.

Finance Officer Adams responded to the concern of additional work load, sharing the department has been cross-trained and they would be looking at some additional part-time seasonal people to help with this at particular times throughout the year.

Councilman Mariano thanked staff for their explanation of this proposal, but questioned the amount of late fees proposed. Mariano also questioned whether there are any criminal penalties that would apply to this proposal and Law Director Smith explained the Municipal Income Tax Ordinance already has criminal penalties included.

Mayor Barhorst commented during the recent Mayor's Conference, those Mayors he discussed this with indicated a 20-46% increase in income tax as a result of mandatory filing.

City Manager Stilwell commented the City's income tax revenue is declining because of the current economy and the City is simply looking for ways to maintain current service levels without increasing any taxes or charges. He noted the City is simply trying to be more efficient and collect those taxes due them.

Council member Milligan commented she would like to see mandatory filing and business/rental losses offset be separated as she feels the tax offset proposal is actually a tax increase.

Councilman Pellman agreed with Milligan; noting he would support the mandatory filing, but has a problem with the offset portion of the ordinance.

Councilman Miller voiced his support of the ordinance as presented.

Council member McMillan agreed with Councilman Miller; adding after additional review she can support both sections of the proposed ordinance. McMillan noted the City has to bring in revenue wherever possible.

Councilman Mariano also commented he could support both sections of this ordinance; adding he appreciates the City trying to find ways to bring in additional income without increasing taxes.

Mayor Barhorst also voiced his support of both sections of this ordinance.

This will return to Council's July 27, 2009 meeting for further review.

RESOLUTIONS

(42-09) A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR FY 2010 TRANSPORTATION GRANTS, INCLUDING THE OHIO ELDERLY AND DISABLED TRANSIT FARE ASSISTANCE PROGRAM AND THE RURAL TRANSIT OPERATING AND CAPITAL GRANT PROGRAM

Transit Manager Grogean explained this resolution would authorize the City to submit applications to the Ohio Department of Transportation for 2010 funding from the Rural Transit Operating and Capital Grant programs and the Ohio Elderly and Disabled Transit Fare Assistance Grant program. She shared these grants could provide 54% of the department funding for 2010.

It was moved by Councilman Mariano, seconded by Councilman Pellman to adopt this resolution as presented. The roll call vote was unanimous and Resolution 42-09 was declared adopted.

(43-09) A RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR BIDS FOR THE AMERICAN REINVESTMENT AND RECOVERY ACT PROJECTS

Utility Director Clark commented he would combine discussion of this resolution along with an update of the ARRA Projects. He noted this resolution would authorize the City to advertise for bids for those projects approved under the American Reinvestment and Recovery Act. Clark pointed out the City will receive \$7,800,000 in funding as a 40% grant and a 60%, 0% interest 20-year loan. He reviewed each of the proposed projects as well as the timetable for completion of these projects. Clark advised contracts for these projects would all be contingent upon OEPA and OWDA loan approval.

Councilman Miller then moved and Council member Milligan seconded a motion to adopt this resolution as presented. The roll call vote was unanimous and Resolution 43-09 was declared adopted.

MISCELLANEOUS

Discussion – Gun Control Regulation Review

Law Director Smith advised as a result of recent changes in state and federal law regarding the right to bear arms, there are two sections of Sidney's code that need to be addressed; namely the right to have firearms in municipal parks and the discharge of firearms within the corporate limits. He reviewed proposed language to bring the City in compliance with state and federal law.

Mayor Barhorst questioned whether possibly the issue of permitting firearms in parks will be revisited in the future, and Smith responded there is always that possibility.

Council agreed to consider necessary legislation at their July 27, 2009 meeting.

Discussion – ODOT Project Update

Public Works Director Gosciewski next reviewed with Council projects scheduled over the next few years in partnership with ODOT.

- Russell Road Bridge – progressing ahead of schedule, due for completion by late September
- Truck By-Pass – will start work next week; hope to complete by end of August
- CSX Bridge Removal – will be removed during 2010
- Wapakoneta Widening – will be done in 2011 from Parkwood to I-75
- Urban Paving – repaving of state routes within City; scheduled to be done in 2011-2012
- Tawawa Creek Bridge Replacement – scheduled for 2013
- I-75 Paving – scheduled for 2014

Gosciewski noted ODOT has been very helpful in working with the City to accomplish these projects.

Discussion – Chapter 911 Water Amendments (Radio Read)

Utility Director Clark explained a proposed new program to read water meters, using radio transmitters. He noted the total cost of this project is \$1,800,000; with the City receiving a 40% grant and a 60%, 0% loan for the balance. Clark pointed out this proposed system can help detect and reduce water loss in the distribution system, as well as reduce the number of staff necessary to read meters. In order for the City to move forward with this project, some minor amendments are necessary to Chapter 911 and Chapter 915 of the Codified Ordinances.

Mayor Barhorst questioned whether going to monthly billing will reduce the number of shut-offs each month and Adams responded those affected by shut-offs are already monthly customers.

Council questioned the \$100 charge for after-hours turn-ons, and Councilman Pellman questioned how many of these the department has. Berning stated they experience less than 12 instances per year where service was to be turned on after normal working hours.

Rick Sims, 921 E. Parkwood voiced his objection to this proposed \$100 fee to turn service back on, adding he feels there are reasons an individual is unable to pay their bill on time and adding this \$100 charge is not good.

Councilman Mariano questioned the accuracy of these radio transmitters and Underground Utilities Supv. Dave Wood indicated he would check into this and make this information available to Council.

City Manager Stilwell commented we need to celebrate receiving \$1.8 million and should be happy about this. Council agreed to consider necessary legislation for this proposal at their July 27, 2009 meeting.

Council member McMillan voiced her concern with the \$100 turn-on charge. It was again noted this \$100 charge would only be for reconnection of service after normal working hours.

Discussion – Fire Department Standard of Coverage Part 3/Potential Fire Station Location

At this time, Fire Chief Crosley reviewed the final portion of the Standard of Coverage report concerning a potential additional fire station and its location. He recapped material from the first two presentations, and reviewed the proposed possible locations for this station. He noted the study concluded the best location for a third station would be in the area of Broadway and Hoewisher, or Broadway and Parkwood.

This information will be retained for such future time the development of such an additional station can be a reality.

Discussion – 4th Ward Council Seat – Selection Process

City Manager Stilwell thanked former Councilman Steve Hamby (resigned 7/3/09) for his service to the community and explained the process to fill his vacated seat on Council. Stilwell noted the current term expires November 30, 2009. He also noted from comments earlier in tonight's meeting, there are at least two individuals interested in this position, which creates an awkward situation to fill the vacancy for such a short time. Stilwell also pointed out August 20 is the deadline for filing petitions with the Board of Elections for the November election.

Councilman Pellman commented this vacancy could mean the Fourth Ward will not be represented for approximately five months.

Councilman Mariano commented he doesn't see an advantage in rushing to fill this seat and suggested waiting to let the community indicate who they want to serve as a result of the November election.

Council member McMillan agreed with this.

Law Director Smith advised Council is not obligated to fill this vacancy until the election.

Council agreed to think about this more and discuss it further at the July 27, 2009 meeting.

Rick Sims, 921 E. Parkwood questioned who would break a possible tie vote with having only six Council members and Law Director Smith indicated the City's Charter indicates legislation must have four affirmative votes to pass, so this wouldn't be an issue.

Council Comments

Councilman Pellman commented residents in his area are very appreciative of the walkway running beside his property connecting Turner Drive to Fourth Avenue.

Councilman Mariano thanked those who came to tonight's meeting concerning garage sale signs and also thanked everyone for their thoughts, cards and flowers during his recent trip to the hospital. Frank added he is doing well.

Mayor Barhorst commented he has received many calls supporting the proposed ordinance concerning placement of garage sale signs.

Councilman Mariano also questioned the status of the Girl Scout Camp and City Manager Stilwell advised he will bring back a discussion on this matter; adding there are no final details available at this time. Councilman Miller commented he appreciated the recent newspaper article indicating the City was not "going after" this property and did not seek it out.

City Manager Comments

City Manager Stilwell advised Council to let staff know if they are interested in riding in the Applefest Parade on September 13. He also mentioned with the 3" of rain the City received in four hours on July 11, because of recent improvements, significant progress was realized in handling this water. Mayor Barhorst also commended the City for taking care of this needed infrastructure.

ADJOURNMENT

At 8:50 PM with nothing further to come before Council, Council member Milligan moved and Councilman Mariano seconded a motion to adjourn. The voice vote was unanimous and the meeting was adjourned.

The meeting was held pursuant to Sidney City Council Rules.

Respectfully submitted,

M. Jocene Fahnestock
City Clerk

Mayor