

MINUTES OF THE REGULAR MEETING OF CITY COUNCIL

Held on Monday, July 27, 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 27, 2009. Mayor Barhorst opened the meeting with prayer, followed by the Pledge of Allegiance.

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: Law Director Mike Smith, Asst. City Manager-Administrative Services Tom Judy, Police Chief Kevin Gessler, Fire Chief Stan Crosley, Parks Director Duane Gaier, Public Works Director Bill Gosciewski, Community Services Director Barbara Dulworth, Finance Officer Ginger Adams, Revenue Collections Office Supervisor Susan Lukey, Utility Office Supv. Karen Berning, Underground Utilities Supv. Dave Wood, Purchasing Manager Gary Gerkey, Human Resources Manager Vickie Allen, Fleet Manager Doug Dearing, and Utility Director Chris Clark.

APPROVAL OF MINUTES

Minutes of the July 13, 2009 Regular Meeting of Sidney City Council were presented for approval.

Councilman Pellman moved, with Councilman Miller seconding a motion to accept the minutes as submitted. The roll call vote was unanimous and the minutes were approved.

ADOPTION 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 already have this mandatory filing policy.

Councilman Miller then moved and Council member McMillan seconded a motion to adopt this ordinance as presented. The voting was as follows: Barhorst – yes, Mariano – yes, McMillan – yes, Miller – yes, Milligan – no, and Pellman – no. Ordinance A-2616 was declared adopted by a 4-2 vote.

INTRODUCTION OF ORDINANCES

(A-2617) AN ORDINANCE AMENDING SECTION 911.10 OF THE CODIFIED ORDINANCES REGARDING RECONNECT CHARGE FOR WATER SERVICE

Utility Director Clark explained this ordinance would amend the Codified Ordinances to include a water meter auto read project, noting once this program is completed, the City will be able to reduce the metering staff from four to two. Clark added this reduction would be done through attrition. He reviewed the proposed amendments necessary. In answer to Council's earlier concern with the cost of after hours turn on costs, Clark noted the department averages eight of these after hours calls per year. He also noted the actual cost for this after hours turn on is \$136; while this ordinance reflects only a charge of \$100 for this service.

Councilman Mariano questioned whether the department considers hardship cases and Finance Officer Adams responded the department already does this.

Council member Milligan questioned whether these turn-offs ever fall on a weekend and Adams responded the department arranges all turn-offs to fall Tuesday through Thursday.

Rick Sims, 921 E. Parkwood voiced his disagreement with this \$100 charge; noting he doesn't feel it will generate significant revenue for the City and will add a burden to affected families.

This will return to Council's August 10, 2009 meeting for further consideration.

(A-2618) AN ORDINANCE AMENDING SECTION 549.11(A) AND REPEALING SECTION 925.13 OF THE CODIFIED ORDINANCES REGARDING FIREARMS

Law Director Smith explained as a result of the Ohio Assembly recently passing RC 9.68 which prohibits municipal authorities from passing ordinances restricting the possession and use of firearms contrary to the Ohio Revised Code, Sidney must repeal Section 925.13 and amend Section 549.11 of our Codified Ordinances. He noted as a result of this proposed ordinance, firearms will now be permitted in City parks or beauty areas. The discharge of a firearm within the City for purposes of self defense will also be permitted.

Councilman Pellman questioned whether Law Director Smith feels this change will ripple over to public buildings and Smith responded this matter is in the hands of the State Representatives.

Mayor Barhorst and Councilman Mariano both commented they are concerned with the erosion of home rule this action reflects; with Barhorst adding he sees nothing good coming from this.

This will also return to Council's August 10, 2009 meeting for further consideration.

PUBLIC HEARING AND INTRODUCTION OF ORDINANCE

(A-2619) AN ORDINANCE AMENDING SECTION 1149.08 OF THE CODIFIED ORDINANCES REGARDING TEMPORARY AND PORTABLE SIGNS

Mayor Barhorst opened a Public Hearing at 6:55 PM and Community Services Director Dulworth explained this ordinance would make various changes to the regulations governing temporary and portable signs. She noted while staff is aware of the economy's impact on local businesses, regulation of signs is not economy-driven, but is done to promote traffic safety, public safety, aesthetics, and property values. She reviewed each of the proposed amendments. Dulworth noted it is staff's opinion the proposed temporary sign regulations maintain the intent of the regulations while allowing more flexibility for the business owner.

The Public Hearing was closed at 7:02 PM. This will return to Council's August 10, 2009 meeting for further consideration.

RESOLUTIONS

(44-09) A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH MHP HOLDINGS-NORTHBROOK MOBILE HOME PARK, LTD, SETTling A CERTAIN LAWSUIT CURRENTLY PENDING IN THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF OHIO WESTERN DIVISION, AT DAYTON, OHIO, CASE NO. 3:08CV0153

Utility Director Clark explained he would review Resolutions 44-09, 45-09 and 46-09 as one. He briefly reviewed the highlights of the settlement agreement with Northbrook Mobile Home Park; noting this matter has been before the City for some 6-7 years. Clark also reviewed the benefits of this development and the tentative schedule for completion of the improvements. He noted NMHP will receive \$504,000 from ARRA funding for drinking water improvements to this property and the owner will pay to install a new sewer system.

Council member McMillan questioned the cost to the City to manage this agreement and bid package and Clark responded approximately \$4000; adding however, this was his job.

Mayor Barhorst questioned how much this lawsuit has cost the City and Law Director Smith responded nothing out of pocket, but a lot of administration time.

Council member Milligan questioned whether work would be done to the City's standards and Clark responded it would. Milligan also questioned who would maintain the temporary access over to Leslie Drive and Clark responded as this connection is being done for the benefit of the City, we would be maintaining it.

Council member McMillan questioned what would happen to the old treatment plant on this property and Clark responded the owner has to abandon it and fill it in.

Councilman Mariano commented it is good to see this matter coming to a close.

Northbrook resident Sharon Hasselbeck questioned whether each resident would be charged for hooking onto City services and Finance Officer Adams answered they each would be charged a \$75 deposit the same as any water customer.

Councilman Miller commented he is pleased this has finally come to a conclusion; adding he feels for the residents who have been fighting this situation for so long. Miller added he feels good about this.

Utility Director Clark advised within the next two weeks he will draft a letter to the residents explaining the timing of this project and their responsibility to sign up for service.

It was then moved by Councilman Mariano, seconded by Councilman Pellman to adopt this resolution as presented. The roll call vote was unanimous and Resolution 44-09 was declared adopted.

(45-09) A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, ACCEPT, AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT ON BEHALF OF THE CITY OF SIDNEY FOR PLANNING, DESIGN AND/OR CONSTRUCTION OF DRINKING WATER FACILITIES FOR NORTHBROOK MOBILE HOME PARK; AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN

Councilman Miller moved and Council member McMillan seconded a motion to adopt this resolution as presented. The roll call vote was unanimous and Resolution 45-09 was declared adopted.

(46-09) A RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR BIDS FOR THE WATER DISTRIBUTION SYSTEM IMPROVEMENTS AT NORTHBROOK MOBILE HOME PARK, FUNDED BY THE AMERICAN REINVESTMENT AND RECOVERY ACT

Council member Milligan moved and Council member McMillan seconded a motion to adopt this resolution as presented. The roll call vote was unanimous and Resolution 46-09 was declared adopted.

(47-09) A RESOLUTION ACCEPTING THE PLAT TITLED "ECHO BUSINESS CENTER, PHASE 1 PLAT"

Community Services Director Dulworth explained this resolution would approve the final plat for Echo Business Center Phase 1, located east of VanDemark Road, to the north of Village West Apartments.

It was moved by Councilman Mariano, seconded by Councilman Miller to adopt this resolution as presented. The roll call vote was unanimous and Resolution 47-09 was declared adopted.

MISCELLANEOUS

Discussion – Underground Fuel Tanks

Asst. City Manager-Administrative Services Judy explained there are two underground fuel tanks at the Service Center; noting a third tank was removed last year when a leak was discovered. He noted it is staff's recommendation both remaining tanks be removed to avoid the risk and costs of further leaks and environmental contamination. Judy commented it also is staff's recommendation to contract with a private vendor for fuel and reviewed the process.

Councilman Pellman commented he feels this is an excellent way to go and Milligan added she also thinks this is a great answer to this problem. She also questioned whether the City has other underground tanks and Judy responded there are two at the airport.

Councilman Miller added his approval of this suggested plan.

Council member McMillan questioned whether the City could partner with a local trucking company or the County for the purchase of fuel. Judy responded the County has above-ground tanks and are not interested in combining this purchase. He added he has also checked with all other public entities.

Council agreed to proceed to remove the tanks and work out a purchasing agreement with a private contractor for the City's fuel supply.

Discussion – Comp Plan Presentation

Community Services Director Dulworth next briefly reviewed the draft update to the City's comprehensive plan, noting the plan is available on the City's website and urged everyone to take a look. She reviewed the various proposed updates and indicated this would be back for further Council review once the Planning Commission had completed their review and made a recommendation.

Discussion – 4th Ward Vacancy

Asst. City Manager-Administrative Services Judy again led Council in a discussion of the vacancy in Fourth Ward, following the recent resignation of Councilman Hamby.

Councilman Miller recommended not filling this position at this time and Councilman Mariano agreed with this. Councilman Pellman also voiced his feelings to leave this seat vacant for the present time and suggested possibly advising those residents in Fourth Ward they can contact any At-Large Council member for assistance as needed.

Council Comments

Councilman Mariano thanked the two residents from Northbrook Mobile Home Park in attendance for tonight's meeting.

City Manager Comments

Asst. City Manager-Administrative Services Judy commented on the right-of-way information in Council's packet and questioned whether Council had any other concerns. None were voiced.

EXECUTIVE SESSION – Boards and Commissions, and Collective Bargaining

At 8:12 PM, Councilman Mariano moved and Council member Milligan seconded a motion to adjourn into Executive Session to discuss Boards and Commissions and Collective Bargaining. The roll call vote followed unanimously.

ADJOURNMENT

At 8:57 PM with nothing further to come before Council, Councilman Mariano moved and Councilman Pellman seconded a motion to come out of Executive Session and 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