

MINUTES OF THE REGULAR MEETING OF CITY COUNCIL

Held on Monday, June 22, 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, June 22, 2009. Mayor Barhorst asked that the family of former Councilman Harold Wiley be remembered (passed away June 16, 2009) and Council member Milligan then shared a moment of 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: City Manager Steve Stilwell, Law Director Mike Smith, Asst. City Manager-Administrative Services Tom Judy, Acting Police Chief Mike Lundy, 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, and Utility Director Chris Clark.

APPROVAL OF MINUTES

Minutes of the June 8, 2009 Regular Meeting of Sidney City Council were presented for approval.

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

PRESENTATION – Citizen Fire Award

Fire Chief Crosley recognized Franklin Webb and Douglas Evans for their heroic efforts in rescuing Dustin Beard from his burning apartment on April 8, 2009. Crosley noted from the report of the Incident Commanders at this fire, if it had not been for the actions of these two individuals, they are confident the outcome for Mr. Beard would have been grave. Both Webb and Evans were presented the Chief Henry C. Yost Medal of Honor; the highest award given to civilians.

Mayor Barhorst thanked both individuals for their actions; adding when we each look out for others, it makes our community a safer place.

CITIZEN COMMENTS

Rick Sims, 921 E. Parkwood, questioned the recent Ohio Supreme Court ruling concerning residency requirements for employees and how this would impact the City.

Law Director Smith explained while the Third District Court of Appeals supported the Charter provision of residency requirements being a condition “for” employment and not “of” employment, the Ohio Supreme Court recently came to the opposite decision. Smith noted we have to follow this latest ruling even if the City’s Charter speaks to the contrary. He noted staff will be presenting legislation to Council soon, to conform to this Supreme Court ruling.

ADOPTION OF ORDINANCES

(A-2612) AN ORDINANCE ENACTING SECTION 335.06 OF THE CODIFIED ORDINANCES REGARDING THE DUTY TO DISPLAY AN OPERATOR’S LICENSE

Law Director Smith explained Municipal Court has recently implemented a license intervention program funded through their “Special Projects” court costs. This new program will assist defendants facing a driving under suspension charge, to secure a valid operator’s license. Smith explained if the defendant is capable of securing a valid license and pays the requisite fees and charges to the BMV, the Judge will permit the DUS citation be amended to “failure to display a license”. At the present time the fine money associated with this citation is being received by the State and this ordinance would permit the court to cite these cases under City Ordinance so the City would receive the fine money. He noted this could possibly mean additional revenue of approximately \$20,000 annually.

Mayor Barhorst commented he feels in the past the City moved many charges “off the books” and now we are putting them back on.

Smith explained many were removed earlier because of the cost of jail time imposed by some of these sections and staff has again looked at some of these sections and feel the likelihood of jail time for this particular section is unlikely; and it could mean additional revenue for the City.

Councilman Mariano then moved and Councilman Pellman seconded a motion to adopt this ordinance as presented. The roll call vote was unanimous and Ordinance A-2612 was declared adopted.

(A-2613) AN ORDINANCE AMENDING SECTION 1303.08(a) AND SECTION 1309.11(e) OF THE CODIFIED ORDINANCES AND ENACTING SECTION 1309(b)(4) REGARDING BUILDING CODE

Community Services Director Dulworth explained this ordinance would add several required permits and inspections to the Building Code. She reviewed each of the proposed changes as well as the permit fee structure. She compared current fee structure with the proposed; noting a reduced fee amount that would be commensurate with the inspections required.

Dulworth added these proposed amendments would provide the inspections required by the Residential Code of Ohio; provide additional safety to our residents; and provide the City’s Building Inspection services for a reasonable fee.

Council member Milligan questioned the definition in the code for wall covering, and Community Services Director Dulworth commented she would verify this for Milligan.

Mayor Barhorst questioned sending the Building Inspector to check something for a \$10 permit and Dulworth explained the inspection department is not supported by the various fees; adding however the City likes to recover 60% of the expense of the department through fees.

It was moved by Councilman Miller, seconded by Councilman Pellman to adopt this ordinance as presented. The roll call vote was unanimous and Ordinance A-2613 was declared adopted.

(A-2614) AN ORDINANCE AMENDING SECTIONS 131.13(b), 131.15(a), 131.17(e), 131.393 AND 131.396 OF THE CODIFIED ORDINANCES REGARDING EMPLOYEE BENEFITS

Asst. City Manager-Administrative Services Judy explained this ordinance would amend Chapter 131 of the Codified Ordinances pertaining to personnel policies in order to change the Purchasing Manager from a full-time to a part-time position, as well as other minor changes to the ordinance. He reviewed each of the proposed changes.

As this ordinance would freeze the current accumulated sick leave for the Purchasing Manager, to be paid out at 30% upon his retirement, Council member Milligan questioned what salary the sick leave balance would be paid from at the time he retires. Judy advised it would be based on the current hourly wage figure. Milligan added she felt the wage for this sick leave pay out should be frozen along with the number of sick leave hours.

Councilman Mariano questioned whether the job description for this position would be changed and Judy noted this ordinance simply changes the position from full time, to part time. In response to a question, Judy commented depending on the economy, we may have to change this position back to full time status at some future time.

Mayor Barhorst questioned whether this could cause problems with other positions, and Judy responded “no”.

Council member Milligan questioned why the City couldn’t simply pay out this sick leave at the present time and Judy responded this would create a situation of retirement and then rehire of an employee; adding the City would like to avoid this.

Councilman Pellman then moved and Council member Milligan seconded a motion to adopt this ordinance as presented. The roll call vote was as follows: Barhorst – yes, Mariano – no, McMillan – yes, Miller – yes, Milligan – yes, and Pellman – yes. Ordinance A-2614 was declared adopted by a 5-1 vote.

(A-2615) AN ORDINANCE AMENDING SECTION 1149.02(e) AND SECTION 1149.17 OF THE CODIFIED ORDINANCES REGARDING SIGNS

Community Services Director Dulworth explained staff has recently received inquiries concerning the City’s sign code as far as the constitutionality of regulations as related to

modification of existing non-conforming signs. She also noted these proposed changes are being reviewed by a law group specializing in sign codes and that report will be presented to the Planning Commission and City Council for review when completed.

It was moved by Councilman Mariano, seconded by Councilman Pellman to adopt this ordinance as presented. The roll call vote was unanimous and Ordinance A-2615 was declared adopted.

PUBLIC HEARING AND RESOLUTION

(40-09) A RESOLUTION AUTHORIZING THE CITY MANAGER TO PURSUE A SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT-FISCAL YEAR 2009 FORMULA ALLOCATION PROGRAM AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A GRANT AGREEMENT

At 7:08 PM Mayor Barhorst opened a Public Hearing and Community Services Director Dulworth explained this is the second public hearing to propose the activities the Community Development Block Grant program will fund for Fiscal Year 2009. She reviewed each of the proposed activities.

The Public Hearing was closed at 7:12 PM.

Councilman Mariano then moved and Council member McMillan seconded a motion to adopt this resolution as presented. The roll call vote was unanimous and Resolution 40-09 was declared adopted.

RESOLUTIONS

(41-09) A RESOLUTION REAPPOINTING DAVID R. FOGT, PHILLIP C. LAHRMER AND DONALD GOETTEMOELLER TO THE REVOLVING LOAN SCREENING COMMISSION

City Manager Stilwell explained this resolution would reappoint David Fogt, Phillip Lahrmer and Don Goettemoeller to new three-year terms on the Revolving Loan Screening Committee. He noted these new terms would expire July 1, 2012.

It was moved by Councilman Miller, seconded by Councilman Pellman to adopt this resolution as presented. The roll call vote was unanimous and Resolution 41-09 was declared adopted.

MISCELLANEOUS

Discussion – Municipal Income Tax Update

Finance Officer Adams next 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.

Council member Milligan commented she felt the mandatory filing would create much more paper work and couldn't see a lot of increase in income tax as a result. Adams responded after the initial cost for setting up mandatory filing, the City would realize more of an increase in income.

Councilman Mariano questioned whether any additional personnel would be needed to implement these changes and Adams indicated she would recommend some seasonal staff be brought in during the tax due date. Councilman Mariano commended staff on their ability to find ways to bring in more income for the City; adding he appreciates this.

Mike Puckett, 1113 E. Hoewisher Rd., voiced his opposition to both the mandatory filing and disallowing business/rental losses to offset wages. He commented he felt this would bring an enormous influx of paper work into the department; adding they never would get caught up. Puckett added he felt these changes would aggravate many individuals who won't owe any additional tax but will still have to file. He also commented he felt the City should allow business/rental losses to count against earned income.

Asst. City Manager-Administrative Services Judy agreed these proposals will make more work; adding the department will not be behind. He added the City is trying to "leave no stone unturned" in locating additional income.

Council member McMillan commented she would like to see these two issues separated.

Councilman Pellman commented he has no concern with staff being able to handle any additional work load, but does have some concern with the proposal to disallow business/rental losses to offset earned income.

Council members Miller, Pellman and McMillan agreed to consider legislation concerning these changes further at the July 13 meeting; while Council members Milligan responded no and Mariano requested a summary of what would be presented.

Mayor Barhorst summarized; Council would look at legislation concerning these changes on July 13, but would like more information prior to that meeting. City Manager Stilwell indicated he would get more information to Council prior to the July 13 meeting.

Discussion – Fire Department Standard of Coverage Part 2

Fire Chief Crosley next reviewed Part 2 of the department's Standard of Coverage Report and explained the fire and non-fire risk in the community along with examination of the department's performance against national standards and objective criteria. He pointed out 20% of the north end of the community is beyond a five-minute travel time. Crosley also reviewed "call stacking" and summarized the report as follows –

- Data indicates a performance gap north of Russell Road

- Further development to the north and recently annexed areas will push travel times past 8 minutes
- A third station would improve first-due response time to the north and northeast areas of the City of Sidney
- A third station would improve second-due response to the north end
- Reliability would improve city-wide
- Additional station would require additional staffing
- Additional staffing would allow the department to meet staffing needs identified in critical task analysis

The final portion of the Standard of Cover Report will be presented at Council's July 13, 2009 meeting.

MOTION – Cancel July 6, 2009 Workshop Meeting

Councilman Mariano moved and Council member McMillan seconded a motion to cancel the regularly scheduled July 6, 2009 workshop meeting of Council. The roll call vote followed unanimously.

Council Comments

Councilman Pellman voiced his surprise with a recent newspaper article concerning a meeting held at Washington Township and the City's proposed new water source. Pellman questioned whether the City could provide more information to Washington Twp. about this project, and Utility Director Clark indicated this information has already been supplied to them.

City Manager Stilwell commented the City can always do a better job of providing information; adding the City has made many presentations on this proposed project. Stilwell added the City will continue to try to do a better job with communication.

Utility Director Clark also commented he had made a presentation earlier to Washington Twp. concerning this project.

Council member Milligan thanked the Fire Department for their quick response to a recent call to her home; adding their response time was great.

Mayor Barhorst thanked Councilman Miller for filling in for him during the June 8, 2009 meeting.

Councilman Pellman moved and Councilman Miller seconded a motion to excuse Councilman Hamby from tonight's meeting due to employment obligations out of town. The roll call voting followed unanimously.

Staff Comments

Public Works Director Gosciewski gave Council a brief update on the Russell Road bridge project, noting steel work will be going up before the July 4th holiday. He added construction is still ahead of schedule on this project.

City Manager Comments

City Manager Stilwell reported on the recent report from Miami Valley Risk Management showing zero losses in 2008 in the Sidney Police Department. He added in addition to doing the job, they do it without losses.

ADJOURNMENT

At 8:55 PM with nothing further to come before Council, Councilman Pellman 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