

MINUTES OF THE REGULAR MEETING OF CITY COUNCIL

Held on Monday, September 14, 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, September 14, 2009. The meeting was opened with a moment of silent 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, 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, Fire Chief Stan Crosley, Parks Director Duane Gaier, Public Works Director Bill Gosciewski, Community Services Director Barbara Dulworth, Finance Officer Ginger Adams, Water Supt. Larry Broughton, and Utility Director Chris Clark. Council candidate Rick Sims was also in attendance.

APPROVAL OF MINUTES

Minutes of the August 24, 2009 Regular Meeting were presented for approval.

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

RESOLUTION

(52-09) A RESOLUTION APPOINTING R. MICHAEL BURNS AS COUNCILMAN FOR THE FOURTH WARD

Law Director Smith explained this resolution would appoint Mike Burns to fill the unexpired Council term representing the Fourth Ward. He noted this position became open upon the resignation of Steve Hamby, and Mr. Burns will serve the remaining portion of Mr. Hamby's term, through November 30, 2009.

Councilman Mariano then moved and Councilman Pellman seconded a motion to accept this resolution as presented. The roll call vote followed unanimously and Resolution 52-09 was adopted.

OATH OF OFFICE

At this time, City Clerk Fahnestock administered the Oath of Office to Mr. Burns and he was seated as Fourth Ward Councilman for the City of Sidney. Mike's parents, Bob and Ginny

Burns as well as his wife Gretchen were in attendance for tonight's meeting. At this point, Burns was added to the roll call.

CITIZEN COMMENTS

John Pinkerman of Lions Clubs International addressed Council concerning his desire to form a new Lions Club in Sidney and Shelby County. He noted Sidney had an active Lions Club for many years and he would like to establish a new charter group to carry on the work of this group. He noted an organizational meeting is scheduled for October 1 at 6:30 PM at the Senior Center.

ADOPTION OF ORDINANCES

(A-2622) AN ORDINANCE AMENDING SECTION 131.30 OF THE CODIFIED ORDINANCES REGARDING RESIDENCY REQUIREMENTS

Asst. City Manager-Administrative Services Judy explained this ordinance would require employees not covered by a collective bargaining agreement to establish residence in Shelby County or a county adjacent to Shelby County within twelve months of hire. He noted on June 10, 2009 the Ohio Supreme Court upheld the constitutionality of Ohio Revised Code 9.481 in which the Ohio General Assembly generally prohibits political subdivisions from adopting residency requirements for its employees. Judy noted one exception to this requirement, noting political subdivisions may adopt legislation requiring employees to reside in the county in which they work or in an adjacent county. This legislation would establish this direction.

Councilman Pellman questioned whether the reasoning behind this legislation was for safety reasons, and Judy responded affirmatively.

Law Director Smith commented this residency requirements also helps employees become a more material part of the community.

It was moved by Councilman Mariano, seconded by Council member McMillan to adopt this ordinance as presented. The roll call vote was unanimous and Ordinance A-2622 was declared adopted.

INTRODUCTION OF ORDINANCES

(A-2623) AN ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE YEAR 2009

Finance Officer Adams explained this ordinance would increase appropriations by \$7,567,904 for the 2009 budget year and noted the various appropriations needed.

Mayor Barhorst questioned why this ordinance hadn't come to Council earlier so emergency language wouldn't be necessary at the second reading and Clark explained the OEPA is the driving force behind this legislation and staff had to have final costs before it could be prepared.

This will return to Council's September 28, 2009 agenda for further consideration.

RESOLUTIONS

- (53-09) A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR

Finance Officer Adams explained this resolution would accept the amounts and rates as determined by the Budget Commission, authorize necessary tax levies and certify them to the County Auditor. She added this is the County Budget Commission's estimate of the City's share of the property tax levy inside the 10-mill limitation.

It was moved by Council member McMillan, seconded by Councilman Pellman to adopt this resolution as presented. The roll call vote was unanimous and Resolution 53-09 was declared adopted.

- (54-09) A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SANITARY SEWER AGREEMENT WITH THE BOARD OF SHELBY COUNTY COMMISSIONERS REGARDING WASTE WATER SERVICES TO MILL CREEK SUBDIVISION

Utility Director Clark explained this resolution authorizes the City Manager to enter into agreement for the City to provide sewer services to County owned facilities without annexation. He reviewed the specifics of the agreement.

Councilman Mariano asked for clarification of how many homes would be serviced and Clark responded this would apply to the three service areas spelled out in the agreement (including the eight homes along Millcreek Road and four vacant lots). Clark noted the City will not be involved in actual billing of the customers.

Mayor Barhorst questioned whether this is a permanent arrangement and Law Director Smith spelled out the terms of the agreement.

Rick Sims, 921 E. Parkwood questioned whether these residents will be paying the surcharge as residents outside the corporate limits and Clark explained they will be billed for the actual flows and then the amounts will be converted to the 1 ½ times surcharge.

It was moved by Council member Milligan, seconded by Councilman Burns to adopt this resolution as presented. The roll call vote was unanimous and Resolution 54-09 was declared adopted.

- (55-09) A RESOLUTION APPOINTING ROBERT BAIRD TO THE INCOME TAX BOARD OF APPEALS

City Manager Stilwell explained this resolution will appoint Robert Baird to a four-year term on the Income Tax Board of Appeals. He noted this term will expire September 30, 2013.

Councilman Mariano moved and Councilman Pellman seconded a motion to adopt this resolution as presented. The roll call vote was unanimous and Resolution 55-09 was declared adopted.

(56-09) A RESOLUTION DECLARING THE INTENT TO APPROPRIATE BY EMINENT DOMAIN A 118.490 ACRE TRACT LOCATED IN THE NORTHWEST AND SOUTHWEST QUARTERS OF SECTION 18, TOWN 7 NORTH, RANGE 6 EAST, WASHINGTON TOWNSHIP, SHELBY COUNTY, OHIO (Hoge)

City Manager Stilwell explained he would explain Resolutions 56-09 and 57-09 together and gave a brief review of the City's interest in obtaining an additional water source to serve the community now and into the future. He explained the passage of these resolutions allows for the statutory process of acquisition of the necessary property to proceed. He noted staff will proceed with negotiations with the two property owners allowing acquisition short of the statutory condemnation process.

Council member McMillan questioned what this property is currently being used for and City Manager Stilwell responded both properties are presently fallow, adding the owners have been aware of the City's testing as well as the results of this testing.

Council member Milligan advised she will be abstaining from voting on these two resolutions because of a conflict of interest.

Councilman Pellman questioned whether adjacent residents will be bothered by traffic or noise and City Manager Stilwell commented this is rural area with very few residences. He added the City will negotiate to go onto their properties if necessary; adding he doesn't feel this will be an invasive operation.

Rick Sims, 921 E. Parkwood questioned the eminent domain process and also questioned the price for this property. Sims indicated he felt originally the City had been talking about \$1 million; while now the figure is closer to \$2 million.

City Manager Stilwell responded he doesn't know how many acres were originally involved, but the acreage has increased and therefore the price. He explained the City followed the ground water to determine the amount of acreage needed. Stilwell also noted in the past when the City has used eminent domain, negotiations continue and the City had been able to settle before eminent domain was necessary.

It was then moved by Councilman Mariano, seconded by Councilman Pellman to adopt this resolution as presented. The roll call vote was as follows: Barhorst – yes, Burns – yes, Mariano – yes, McMillan – yes, Milligan – abstain, and Pellman – yes. Resolution 56-09 was declared adopted.

(57-09) A RESOLUTION DECLARING THE INTENT TO APPROPRIATE BY EMINENT DOMAIN A 62.021 ACRE TRACT LOCATED IN THE NORTHWEST AND NORTHEAST QUARTERS OF SECTION 18,

TOWNSHIP 7, RANGE 6 EAST, WASHINGTON TOWNSHIP, SHELBY COUNTY, OHIO (Spring Creek)

Councilman Burns moved and Councilman Mariano seconded a motion to adopt this resolution as presented. The roll call vote was as follows: Barhorst – yes, Burns – yes, Mariano – yes, McMillan – yes, Milligan – abstain, and Pellman – yes. Resolution 57-09 was declared adopted.

MISCELLANEOUS

Discussion – Liquor License Transfer for BR Petroleum, 1301 Wapakoneta Ave.

City Manager Stilwell explained the City received a request from Handy Dandy, 1301 Wapakoneta Ave. for transfer of a C1 liquor license. He noted the Police background check found no known reason to oppose this liquor license request, and Council voiced no objection to the license request.

Discussion – Five-Year Plan

City Manager Stilwell commented the proposed five-year plan had been reviewed in its entirety at the September 8 workshop session and asked if Council had any additional questions.

Councilman Pellman commented he felt the proposed five-year plan is a great piece of work considering the present economy.

City Manager Stilwell commented through strong conservative thinking over the past years, Sidney's financial picture is not as dire as others. He noted the City is still doing things to "make ends meet" and additional cuts can still be made if necessary in March 2010.

Council member Milligan commented she felt staff had done an incredible job in preparing this document, but questioned some park improvements planned in 2010 and questioned whether these could be pushed out further.

City Manager Stilwell responded staff is comfortable this proposed plan addresses the needs of the residents and has worked hard not to interrupt services to the community. Stilwell added he feels there is sufficient cushion to continue services should additional cuts be necessary.

Council Comments

Councilman Mariano voiced his welcome to Councilman Burns for coming back on Council, adding it is good to see him back. Mayor Barhorst voiced his agreement with this as well.

Council member McMillan also welcomed Burns and added she had the pleasure of riding on the fire truck during the Applefest Parade and was impressed with the professionalism and courtesy of the fire staff.

Mayor Barhorst commented he had heard many positive comments concerning the recently completed Russell Road bridge, but questioned why the fence on the north side is different than

on the south side of the bridge. City Manager Stilwell responded the fencing on the north side had to be different as there is sidewalk along this side of the bridge.

Mayor Barhorst also commended staff for their help during the recent Applefest event.

Staff Comments

Utility Director Clark advised of the upcoming hydrant flushing schedule.

ADJOURNMENT

At 7:32 PM with nothing further to come before Council, Council member McMillan moved and Councilman Burns 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