

MINUTES OF THE REGULAR MEETING OF CITY COUNCIL

Held on Monday, April 25, 2011

6:30 P.M.

CALL TO ORDER

The regular meeting of Sidney City Council was called to order at 6:30 P.M. Monday, April 25, 2011, with Mayor Barhorst presiding.

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, Public Works Director Chris Clark, Police Chief Kevin Gessler, Fire Chief Brad Jones, Community Services Director Barbara Dulworth and Finance Officer Ginger Adams. Staff members present included: Transit Manager Deb Grogean, HR Manager Vickie Allen, City Prosecutor Tonya Thieman and City Arborist Joyce Reier. Guests included 4th Ward applicants Tom Martin, Steve Smith, Steve Wagner and Nathan Zehringer.

APPROVAL OF MINUTES

There being no additions or corrections, Council member Milligan moved to adopt the minutes of the April 11, 2011 regular meeting. Motion seconded by Councilman Pellman; motion passed by voice vote.

PROCLAMATIONS

Mayor Barhorst proclaimed April 30, 2011 as Rx OTC Take Back Day. Police Chief K. Gessler explained that Police Officers and community leaders nationwide were working together to curb the drug problem facing our youth today – prescription and over-the-counter drug abuse. Citizens are urged to turn in unused or unwanted medication in order to keep them out of the wrong hands.

April 29, 2011 was declared Arbor Day in the City of Sidney by proclamation presented by Mayor Barhorst. The City has earned the national designation of Tree City USA for 21 years. City Arborist Joyce Reier was present to accept the Proclamation.

The annual observance of Law Day on May 1, 2011 was celebrated by Proclamation presented to City Prosecutor Tonya Thieman. Mayor Barhorst reminded everyone of the importance of our legal and judicial system.

ADOPTION OF ORDINANCES

A-2676 AN ORDINANCE ACCEPTING THE ANNEXATION OF A 12.528 ACRE TRACT IN SECTION 11, CLINTON TOWNSHIP, SHELBY COUNTY, OHIO, TO THE CITY OF SIDNEY, OHIO

CSD B. Dulworth reviewed the proposed annexation of 12.528 acres of land located to the south of the existing paved Canal Feeder Trail to the south of the City. The property is owned by the City of Sidney. The annexation of this property will not generate a substantial negative impact on City facilities and services and is consistent with the City's policies and objectives as identified in the City's comprehensive plan. Upon review of the proposed annexation, the Planning Commission also recommends approval as submitted. County Commission approved the annexation on March 29, 2011.

In response to Mayor Barhorst's question about City services in this area, Fire Chief B. Jones explained that location markers are placed along the trail at certain access points in order to facilitate finding a victim in need of services.

Councilman Mariano moved, and Council member McMillan seconded, to adopt Ordinance A-2676. Motion passed by voice vote.

A-2677 AN ORDINANCE ZONING A 12.528 ACRE TRACT IN SECTION 11, CLINTON TOWNSHIP, AS R-1, SINGLE FAMILY RESIDENCE DISTRICT

CSD B. Dulworth presented the proposed annexation of the 12.528 acre tract recently annexed to the City. The R-1, Single Family Residence District designation for the entire area would make the publicly owned and operated recreation facility a conforming use. Planning Commission reviewed the proposed zoning plan at their March 21, 2011 meeting and recommend establishment of R-1, Single Family Residence District.

There being no questions, Council member Milligan moved and Councilman Mariano seconded to adopt Ord. A-2677. Upon voice vote, motion passed.

A-2678 AN ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE YEAR 2011

Finance Officer G. Adams reviewed with Council the proposed supplemental appropriations for various funds for the 2011 budget year. The effect of these changes would be to increase 2011 appropriations by \$476,000, as follows: Capital Improvement (+\$451,000 related to the demolition of the Taylor Building (\$362,000) and the replacement of a backhoe at Graceland Cemetery (\$89,000)); Street Fund (+\$25,000 to cover the street winter maintenance budget); and General Fund (no net change – transfer of \$15,000 from Code Enforcement personnel services to Code Enforcement contractual).

Council member McMillan moved to amend Ordinance A-2678 to include authorization for the City Manager to advertise for bids or enter into a cooperative purchasing agreement for the purchase of the backhoe for Graceland Cemetery. Motion was seconded by Council member Milligan; motion passed by voice vote.

Councilman Mariano moved to adopt Ordinance A-2678 as amended. Council member McMillan seconded the motion and all members voted affirmatively.

INTRODUCTION OF ORDINANCES

A-2679 AN ORDINANCE AMENDING SECTIONS 1323.01 AND 1323.07 OF
THE CODIFIED ORDINANCES AND ENACTING SECTIONS 1323.10
REGARDING PRIVATE SWIMMING POOLS.

CSD B. Dulworth introduced proposed amendments to the City of Sidney private swimming pool code. Staff is recommending amendments to Section 1323 to include larger storable pools in the definition of a swimming pool. Main issues of concern include fencing requirements, permit and inspection of electric sources for filter pumps and the time period for temporary pools to be used. Proposed amendments would require the larger storable pools to have a permit, including proper placement in the rear yard, fencing, and appropriate electric connections. Smaller pools defined as “temporary” would not require a permit but would be limited to May 1 to October 1 of each year.

The Shelby County Health Department has requested an amendment to Section 1323.07. The proposed amendment would change the responsible party to “the State Health Department and/or City Building Inspector” for inspections of pools as necessary and to approve all filtration systems.

These ordinance changes would be effective January 1, 2012 in order to give City residents plenty of time to be educated on the changes and make plans for the 2012 pool season.

Council member McMillan suggested that the new regulations be included as a flyer in the utility bill mailings.

Councilman Pellman expressed his concern about the 5’ fence requirement and the seasonal period of May 1 to October 1.

Councilman Mariano agreed with Councilman Pellman with concern about the fence height; he is also concerned about the resident who already has a fence on the property but does not meet the required five foot. The timeline for temporary pools is too restrictive on the users. The City follows the electric regulations according to the National Electric Code. He would like to see the regulations more flexible on fence requirement for an existing fence and the timeline. He commented that he “is with you on the safety issue”.

Council member Milligan asked for clarification regarding the “over 24” in depth at any point. What if the owner fills the pool to only a foot? CSD Dulworth explained that according to the regulation, if the pool capacity exists for over 24”, then a permit is

required. Some manufacturers state “24” capacity, however, they recommend only filling to 22”. CSD Dulworth responded that those issues would be considered in the permit process on a case by case basis.

Councilman Pellman inquired why placement of the pool must be in the rear yard only and the set back requirements; are there properties that could not have a pool; is this for aesthetic purposes? CSD Dulworth explained that these guidelines are for safety purposes since there typically is less accessibility in rear yards.

Council member Milligan expressed her belief that safety is important. Regarding the Health Department inspection clause, CSD Dulworth explained that there is only one permit required; only one fee; no extra charge for the inspection. The Health Department has the authority to conduct the inspections but they are not inclined to do so due to time, cost and manpower.

Steve Smith, 657 Ridgeway, Sidney, asked if there was a record of people hurt; is that why this is being brought before Council? CSD Dulworth replied that she is not aware of any drowning in the City but the potential exists.

Mayor Barhorst commented that there are a number of complaints about pools sitting around and not being used; the water becomes stagnant and no fencing around them. Mayor Barhorst feels the fence height should be higher. Homeowner needs to take some responsibility also; he doesn’t want to over regulate the citizens.

Law Director M. Smith reminded Council that the Ordinance will be brought back to Council at the May 9, 2011 regular meeting for further discussion. At that time, if Council chooses, the Ordinance can be (a) adopted as presented, (b) amended or (c) tabled for further clarification. LD Smith also noted that 5’ fencing is required for year round swimming pools. Changes in fence regulations for pools could affect in-ground pools also.

Steve Wagner, 702 S. Ohio, Sidney, asked what the permit fees are. CSD Dulworth replied that the permits are approximately \$40-\$50. Mr. Wagner agrees that the City needs to be flexible with fence height. His personal property is on a corner and the fence height requirement would prohibit him from putting in a large pool.

Following discussion, no motion to amend the proposed amendments was made. Ordinance A-2679 will return to Council at the May 9, 2011 regular meeting.

RESOLUTIONS

21-11 RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH AUDREY WILLIS REGARDING A TRACT OF LAND WEST OF SR 47, EAST OF THE MIAMI RIVER AND NORTH OF MOSQUITO CREEK

CM Stilwell reviewed the proposed Lease Agreement for the community garden to be located on SR 47. Ms. Audrey Willis has again requested permission to coordinate this

program for the residents to grow fruits and vegetables for their personal use, not for profit. The agreement includes a hold harmless clause to eliminate any liability issues for the City.

Councilman Mariano moved to adopt Resolution 21-11; Councilman Pellman seconded the motion. Motion passed by voice vote.

MISCELLANEOUS

Discussion – Shelby Public Transit Rates

Transit Manager D. Grogean reviewed the terms of the 2011-2012 Contract and Fare Rates for Shelby Public Transit. The Transit Advisory Committee reviews the operating data of the transit system annually and recommends rate adjustments as needed. The rates proposed to City Council are: per hour - \$45; per mile - \$3.50; and per passenger - \$15.00. The hourly and per passenger rates are for service within the City; the mileage rate is issued for trips in the county or to destinations located out of Shelby County. Staff conducted a rider survey which reflected overwhelming acceptance of an increase of the Elderly and Disabled rate to \$1.00 from the current \$0.75.

Council member Milligan commended D. Grogean for conducting a rider survey to obtain patrons' input on the rate increases.

Law Director M. Smith noted that the proposed rates will be brought back to Council in Ordinance form at the May 9, 2011 regular meeting.

Discussion – 4th Ward Vacancy

Clerk J. Goubeaux introduced the discussion for the four applicants to the 4th Ward seat. All four applicants addressed Council with background information and explained why they were interested in serving on City Council. Following the presentations, Mayor Barhorst opened the floor for Council members to ask questions of the applicants.

Mayor Barhorst expressed appreciation to all four applicants for their interest in serving and explained to them the process for selecting the next 4th Ward representative.

COUNCIL COMMENTS

Mayor Barhorst reported on the April 18, 2011 Legislators Update sponsored by the City. The event was a success and appreciated by the County Commissioners and local elected offices in attendance.

Council member McMillan moved, and Councilman Pellman seconded, to excuse Councilman Miller from the meeting due to a personal commitment out of town. Motion passed by voice vote.

STAFF COMMENTS

PWD C. Clark gave Council a brief update on the weather forecast relating to the river condition and potential flood issues. CM Stilwell reminded Council that the City web site has updated information on the river level and rainfall predictions. The jersey barriers from the Taylor Building will be relocated to the south end; the Parks staff has already emptied the buildings at Custenborder as a precautionary measure.

Clerk J. Goubeaux thanked Council for the opportunity to attend and participate in the 2011 OMCA Spring Conference/Institute at Mason, Ohio on April 20 and 21, 2011. The Institute provided the educational credits toward CMC certification; the Conference provided the chance to exchange "Clerk" ideas, suggestions and best practices. The next Conference/Institute will be held in the Fall at Kent State. In addition to the conferences, there are on-line training courses available for certification credits.

CITY MANAGER COMMENTS

CM Stilwell added his comments regarding the April 18th Legislators Update. He expressed his thanks and appreciation to Clerk J. Goubeaux for her assistance in organizing the event.

The new traffic lights at Main and Russell Road include sensors for purpose of triggering the light change (not for catching "red light offenders").

CM Stilwell gave a brief update on the "Gateway" project at I-75 and SR 47 West. Funds for this improvement are from ODOT and \$25,000 from private donations. No City dollars will be spent on this project.

Staff is watching the weather forecast and is prepared to go into action as necessary in the event of flooding issues.

EXECUTIVE SESSION

At 7:43 p.m., Council Mariano moved to go into Executive Session for purposes of discussing collective bargaining/personnel issues and 4th Ward applicants. Council member McMillan seconded the motion. Upon voice vote, motion passed. Staff members invited to join Council in Executive Session included Clerk J. Goubeaux, City Manager S. Stilwell, Assistant City Manager T. Judy, HR Manager V. Allen, Police Chief K. Gessler and Law Director M. Smith.

Council member Milligan made a motion at 8:35 PM to come out of Executive Session; Councilman Mariano seconded and motion passed by voice vote.

Council directed Clerk J. Goubeaux to prepare a Resolution appointing Steve Wagner as 4th Ward Council member, serving the unexpired term of Mike Burns. The term will expire on November 30, 2013.

ADJOURNMENT

At 8:55 PM, with nothing further to come before Council, Council member Milligan moved and Councilman Mariano seconded a motion to adjourn. The roll call vote was unanimous.

The meeting was held pursuant to Sidney City Council Rules.

Respectfully submitted,

Joyce L. Goubeaux
City Clerk

Mayor