

MINUTES OF THE REGULAR MEETING OF CITY COUNCIL

Held on Monday, February 28, 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, February 28, 2011, with Mayor Barhorst presiding.

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, Finance Officer Ginger Adams, Police Chief Kevin Gessler, Fire Chief Brad Jones, Parks Director Duane Gaier, Public Works Director Chris Clark and Community Services Director Barbara Dulworth.

APPROVAL OF MINUTES

Councilman Mariano moved, and Councilman Pellman seconded, to approve the minutes of the February 14, 2011 regular meeting. Motion passed.

CITIZEN COMMENTS

Mayor Barhorst welcomed several local boy scouts and their leaders to the meeting.

ADOPTION OF ORDINANCE

A-2670 AN ORDINANCE ASSESSING THE COST OF WEED CUTTING

Finance Officer G. Adams summarized the process for the City to assess the cost of weed cutting to the property owners who failed to comply with the City Code. The City paid to have the work performed and invoiced the property owners accordingly. Property owners who failed to pay the invoice will be assessed on their property tax obligations. A total of 35 parcels will be assessed a total of \$4,649.40.

Council member McMillan moved, and Councilman Miller seconded, to adopt Ordinance A-2670 as presented. Upon voice vote, motion passed.

A-2671 AN ORDINANCE TO LEVY SPECIAL ASSESSMENTS FOR THE CONSTRUCTION AND REPAIR OF CERTAIN DESCRIBED SIDEWALKS IN THE CITY OF SIDNEY, OHIO

PWD C. Clark reviewed with Council the special assessments for the construction and repair of certain sidewalks under the 2010 Sidewalk Repair Program. For property owners who did not complete their own sidewalk repairs during 2010, a City contractor completed the work. Property owners were notified of their estimated replacement costs as well as their option to object to the amount of the proposed assessment. One objection was received from the owner of 235 Overland Drive. The objection has been accepted by staff and the assessment for this property has been removed from the ordinance.

There being no discussion, Councilman Miller moved, and Councilman Pellman seconded, to adopt Ordinance A-2671. Motion passed upon voice vote.

A-2672 AN ORDINANCE DETERMINING TO PROCEED WITH THE APPROPRIATION BY EMINENT DOMAIN OF 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)

CM S. Stilwell gave an update on the real estate acquisition for the new water source property. The City has appropriated \$2,250,000 for acquisition of water source property. The City will proceed with the Hoge property acquisition first because most wells are to be located on this property. Appraisals, both land value and mineral rights, were submitted to Mr. Hoge in August, 2010.

Ordinance A-2672 will allow for statutory process of acquisition to proceed by eminent domain. The staff will continue negotiations with the property owner in an effort to acquire the property short of any statutory condemnation process.

Councilman Mariano commented that folks have asked him why the City is “taking the guy’s land”. City Manager Stilwell confirmed the correct response is that (a) the City is purchasing the land because we need it for a new water source, and (b) the City is willing to pay fair market price and has attempted to negotiate with the owner.

Council member Milligan stated that she is abstaining from the discussion and vote due to a conflict of interest; her family owns real estate next to the subject property.

Councilman Mariano moved, and Councilman Miller seconded, to adopt Ordinance A-2672 as presented. Vote results: Barhorst – yes; Burns – absent; Mariano – yes; McMillan – yes; Miller – yes; Milligan – abstain; Pellman – yes. Motion passed by a vote of 5 – yes; 1 – absent; 1 – abstention.

A-2673 AN ORDINANCE AMENDING SECTION 913.235 OF THE CODIFIED ORDINANCES REGARDING CHARGES FOR EXCESSIVE LOADS

PWD C. Clark presented Ordinance A-2673 regarding industrial extra strength surcharge rates. This special charge is for industries that discharge wastewater to the City’s Wastewater Treatment Plant that has a waste strength greater than normal domestic waste. There are a total

of 33 industries in the City's Industrial Pretreatment Program; 12 of them discharge high strength wastewater.

The last amendment to the Extra Strength Waste charge was in November, 2008. Chapter 913, Section 913.235(4) of the Codified Ordinances states that "These charges shall be reviewed every two years and revised if necessary."

Councilman Pellman moved, seconded by Council member McMillan, to adopt Ordinance A-2673. Motion passed upon voice vote.

A-2674 AN ORDINANCE ADOPTING A NEW "ZONE MAP, SIDNEY, OHIO"

CSD B. Dulworth reported that the last Zone Map was established in February, 2008. Since that time there have been five rezonings and one annexation within the City. Ms. Dulworth briefly reviewed each item for Council. The Planning Commission reviewed the proposed Zone Map at their January 28, 2011 meeting and recommended that Council approve the new Zone Map.

Council member McMillan moved to adopt Ordinance A-2674; Councilman Mariano seconded the motion. Upon voice vote, the motion passed.

RESOLUTIONS

10-11 A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ELECTRIC GENERATION SUPPLY AGREEMENT WITH DPL ENERGY RESOURCES (DPLER) REGARDING THE CITY'S ACCOUNTS WITH DPLER

ACM T. Judy updated Council on the negotiations conducted by the Miami Valley Communication Council, on behalf of 20 cities including the City of Sidney, to provide a fixed rate for electric power and transmission of same. The agreement is for the period of March 1, 2011 through December 31, 2012. The rate will decrease the City's electric costs by an estimated \$160,000 over the 22-month term of the contract.

Councilman Mariano moved to adopt Resolution 10-11; Council member Milligan seconded the motion. Motion passed upon voice vote.

11-11 A RESOLUTION APPOINTING JOYCE GOUBEAUX AS CITY CLERK

Mayor Barhorst gave a brief history of the consolidation of the City Clerk and Office Manager positions since August 1, 2010. Due to limited financial assets, all parties (Council, Staff, Clerk and Management) believe that the consolidation of the two positions is feasible and recommended that Joyce Goubeaux be appointed permanent City Clerk.

Council member Milligan moved to adopt Resolution 11-11; motion seconded by Councilman Pellman. Motion passed by voice vote. Clerk J. Goubeaux expressed her appreciation for Council's support and her pleasure of serving the Council.

12-11 A RESOLUTION AUTHORIZING THE CITY MANAGER TO PROCEED WITH A RESURFACING CONTRACT WITH THE OHIO DEPARTMENT OF TRANSPORTATION REGARDING THE RESURFACING OF VARIOUS STATE ROUTES WITHIN THE CITY OF SIDNEY

PWD Clark reported to Council on the ODOT Urban Paving Program scheduled for 2011. The streets to be paved include: St. Rt. 29 from Lane Ave to Main Street; St. Rt. 29 from Court Street to North Street; and St. Rt. 47 from the North Street Bridge to the east corporation limits. The paving project will be an 80% - 20% cost split with the City paying 20% of the grinding and overlay costs. ODOT estimate for this project totals \$470,000; the City's share of the paving cost would be an estimated \$94,000. Utility adjusts (manhole covers, valve boxes, etc.) would be at the City's expense, which is included in the 2011 Budget.

The City will be responsible for 100% of all costs to install or repair curb ramps at all adjoining intersections to ensure compliance with ADA regulations. The 2011 Budget has allocated \$72,000 for the handicap ramp updates in the project area. Final costs by the City and State for the 2011 Urban Paving will be based on actual bids received and accepted by the State.

ODOT has agreed to include additional repairs on Court Street, in front of The Spot Restaurant to eliminate the ruts in the pavement.

Councilman Mariano moved, and seconded by Council member McMillan, to adopt Resolution 12-11. Motion passed upon voice vote.

13-11 A RESOLUTION OF CONSENT TO THE RESURFACING OF I-75 PROJECT BY THE OHIO DEPARTMENT OF TRANSPORTATION THROUGH THE CITY OF SIDNEY, OHIO, AND AGREEING TO COOPERATE.

PWD Clark explained to Council that the Ohio Department of Transportation has postponed the complete mill and overlay of I-75 through Sidney from 2014 until 2016. In the interim, ODOT has determined that I-75 needs to be spot repaired due to the recent harsh winter conditions. Since a portion of the project is within the corporation limits of the City, ODOT requires a Resolution of Consent for the resurfacing project. The State is asking for consent only; no financial participation for the asphalt road. Any special wishes by the City would be paid by the City 100% if ODOT finds them unnecessary for this project.

Councilman Miller moved to adopt Resolution 13-11 as presented; Councilman Pellman seconded the motion. Upon voice vote, motion passed.

COUNCIL COMMENTS

Council member Milligan moved, and Councilman Mariano seconded, to excuse Councilman M. Burns due to job conflict. Motion passed by voice vote.

Councilman Pellman commented that he felt the changes to the hazardous waste program will be a vast improvement. The prior “single day collection” was good but the improved program will be appreciated by a lot of people.

CM Stilwell thanked County representative Jack Toomey and City representative Tom Judy for their efforts on the South West Ohio Solid Waste District committee and their input into the updated waste collection program.

Mayor Barhorst acknowledged the local boy scouts, their leaders and University of Dayton intern Elizabeth Arnold who were in attendance. He explained that the agenda items this evening may have sounded cut and dry; discussions on each item were held during Workshop session and questions answered during the first reading. He encouraged them to attend a future Workshop session to see more interaction.

Freshway Foods officials expressed their thanks to Mayor Barhorst for the quick action of the Fire Department and the Fire Chief’s handling of their recent situation.

DISCUSSION – Taylor Building

Council member Milligan inquired as to the status of the Taylor Building, noting the barricades were still in place. CM Stilwell gave a brief summary of action to date: City notified the owner that he had 120 days to raze or repair; at the end of the 120 days, the owner had not complied. City advised him that it intended to pursue criminal process and gave him 30 days to respond. No solution found to date; the City is trying every method possible. Ms. Milligan asked if the City had been inside the building in the last six months. Staff has a fixed position on the south wall. Through the winter, no additional movement has been noted; we are still concerned about citizens’ safety and welfare.

Councilman Pellman commented that the owner had presented options to Council in 2010. Does the City have any say over the options? CM Stilwell responded that the City authorizes the conditional uses; the State determines the structural work and building permits. The Downtown Design Review Board would be involved with any aesthetic design work. Currently, it is more a structural concern than aesthetic.

Councilman Mariano asked what the City’s options are. CM Stilwell explained that because we declared it a dangerous structure, we can enter and abate, at the City’s expense and then assess the expense back to the owner. This would not be a good solution considering the estimated expense would far exceed value of the building. And, the owner would still own the property. Law Director M. Smith further explained that the assessment would be placed on the property taxes; however, the owner is probably not paying taxes. The County would then put it up for auction to recoup the taxes. If an independent buyer purchases the property, the City might get some of the assessment back. Taxes come out of the proceeds of sale before any assessments. The City has the right to pursue civil action against the owner’s other assets, if any.

Mayor Barhorst reminded Council that the owner, Mr. Desmond, had stated that he had established a separate LLC for this building.

Councilman Mariano expressed his concern that we would have to go after the owner like this.

CITY MANAGER COMMENTS

CM Stilwell reported to Council that several offices in City Hall have been relocated. A directory will be placed in several locations throughout the building directing the visitors to the proper offices.

Council is reminded of the March 8, 2011 ribbon cutting ceremony for Hometown Urgent Care on W. Michigan Avenue.

CM Stilwell, Mayor Barhorst and ACM Judy have been involved with legislative activities in Columbus, most recently CM Stilwell testified at the SB-5 collective bargaining hearings; Mayor Barhorst has been in contact with Senator Faber, and ACM Judy spoke at the recent OCMA Conference on the topic of firefighter labor contract negotiations. Another current issue is HB-3 dealing with the elimination of estate tax in 2013. The City could potentially lose an estimated \$125,000 per year. Staff will report back to Council in April/May re: budget effect and mid-course corrections needed.

ADJOURNMENT

At 7:23 PM, with nothing further to come before Council, Councilman Mariano moved and Council member Milligan seconded a motion to adjourn. The roll call vote was unanimous and the meeting was adjourned.

The meeting was held pursuant to Sidney City Council Rules.

Respectfully submitted,

Joyce L. Goubeaux
Acting City Clerk

Mayor