

## **CITY COUNCIL MEETING – MONDAY, NOVEMBER 14, 2011**

The Council of the City of Zanesville met in regular session at 7:00 p.m., Monday, November 14, 2011 in the City Council Chambers, 401 Market Street, Zanesville, Ohio.

Mr. Vincent led those present in the Lord's Prayer.

Boy Scout Troop 158 from the Euclid Avenue United Methodist Church led those present in the Pledge of Allegiance to the Flag.

The following members of Council answered Roll Call: Mr. Roberts, Mr. Tilton, Mr. Zakany, Mr. Baker, Mr. Tarbert, Mrs. Gentry, Mrs. Norman, Mr. Kilpatrick, Mr. Hutcheson, and Mr. Vincent.

### **APPROVAL OF MINUTES**

Mr. Zakany moved to accept the minutes as printed, seconded by Mr. Tilton.  
Motion carried.

### **COMMUNICATIONS, REPORTS, AND RESOLUTIONS**

Resolution No. 11-74- Introduced by Council –A resolution authorizing the proper city official to apply for a brine water permit through the Ohio Department of Natural Resources Division of Mineral Resource Management and declaring an emergency.

Mr. Tilton moved to waive the three readings, seconded by Mr. Roberts.  
R. C. to waive  
9 Ayes – 0 Nays  
Motion carried.

Mr. Roberts moved for passage, seconded by Mr. Hutcheson.

Mr. Sims: This is a cost saving measure for the city. We purchase a brine mixture currently and this will save us between \$1,500 - \$1,600 during the winter months. It is available to us free of charge.

Mr. Tilton: Do we have equipment to spread this?

Mr. Sims: Yes, we have a manual that is from the Ohio Development of Natural Resources. We follow the guidelines; check the trucks to make sure they have the proper spreader bar, and the ability to stop the spreading when the truck is not moving. We meet all the requirements.

Mr. Vincent: This is a pre-treat that is put down before an expected snow fall. This makes the roads safer longer and also releasing the snow.

R. C. for passage  
9 Ayes – 0 Nays  
Motion carried.

### **PROPOSED ORDINANCES**

Mr. Tilton moved to add Ordinance No. 11-80 to the agenda as item 7A, seconded by Mr. Baker.  
Motion carried.

Ordinance No. 11-73 – Introduced by Council – Providing appropriations for use during the fiscal year 2012, and declaring an emergency.

Mr. Tilton moved for first reading, seconded by Mr. Hutcheson.

Mr. Vincent: We are going to set up a meeting next Monday?

Mr. Kilpatrick: Yes, around 6:00 p.m. for a couple of hours and see how much we can get through. Hopefully, most of it, but if we cannot get through it all we could meet early on Monday, November 28<sup>th</sup> to finish it.

Mr. Vincent: Please coordinate with the Clerk and Mr. Raines. Work it out with the department officials so they can all be here.

Motion carried.

Ordinance No. 11-75 - Introduced by Council – Authorizing advertising for bids and entering into contract for the purchase of limestone for the city's requirements during the year 2012.

Mr. Tilton moved to waive the three readings, seconded by Mr. Hutcheson.

R. C. to waive  
9 Ayes – 0 Nays  
Motion carried.

Mr. Roberts moved for passage, seconded by Mrs. Norman.

R. C. for passage  
9 Ayes – 0 Nays  
Motion carried.

Ordinance No. 11-76 - Introduced by Council – An ordinance authorizing the proper city official to apply to the Ohio Public Works Commission for emergency funding to replace the collapsed portion of the culvert under Brandywine Boulevard and declaring an emergency.

Mr. Roberts moved to waive the three readings, seconded by Mr. Zakany.

R. C. to waive  
9 Ayes – 0 Nays  
Motion carried.

Mr. Tilton moved for passage, seconded by Mr. Hutcheson.

Mr. Baker: What kind of grant funding are we talking about? What is the total cost of this project?

Mr. Sims: We should have the final cost estimate on Friday. It is approximately \$400,000 and this is an emergency pool of money that is available through Public Works for such projects as bridge failures, road collapse, or it has to be a disaster type event.

Mr. Baker: Is that grant money and not a loan?

Mr. Sims: It is grant money. Looking at the application we would score more points if we put some city money toward it.

Mr. Baker: Is matching money a necessity or is that just to get a higher consideration?

Mr. Sims: Higher consideration.

Mr. Zakany: If this grant was not available, would the city be responsible for the total cost?

Mr. Sims: Yes, we would probably have to borrow the money. With all the upcoming sewer separation work that we have the only available funds would have to come from the Storm Sewer Fund. It would take most of that to do just this one project and we have eight other projects to do in the next five years.

Mr. Baker: Are you planning on asking for city money to get us a higher consideration?

Mr. Sims: I need to have some communication with Public Works Commission because I looked through the application today and it is similar to the one that we utilize for our paving. That requires a match, but this is a separate pool of money. I might have to come back on November

28<sup>th</sup> with another request if we have to include a match. I will know when we have the final cost and I know what the dollar amount will be.

Mr. Baker: Do you have a figure for this project?

Mr. Sims: The match? If it is similar to the Public Works Commission paving rounds, you need 34% match to score the best.

Mr. Baker: What is the total amount for the project?

Mr. Sims: Roughly \$400,000.

Mr. Baker: So are you talking about \$120,000?

Mr. Sims: Yes.

Mr. Vincent: Did our city engineer design this?

Mr. Sims: It is a single source manufacture and when you purchase their pipe they provide an inspector as part of the cost of the pipe. We hired that firm to do the preliminary design work. Mr. Saunders is finalizing the bidding documents and the final overall costs based on the quantities to put it back in. We know the pipe is \$800 per foot, but that includes the inspector on site to see that it is installed properly.

Mr. Vincent: Are there more than one manufacture?

Mr. Sims: It is a single source. It is the only available manufacture. It was owned by Republic Steele and it is called the Contech now. This is a multi-plate galvanized elliptical pipe. This is within inches of being considered a bridge because of its width and height.

Mr. Vincent: Is it a 50 year life expectancy?

Mr. Sims: It should be 40 – 50 years.

Mr. Vincent: I understand the grant can only be for the repair part of it. Is there anything we can do to help get some more life out of what is still there, so we will not be faced with this again in 5 – 10 years?

Mr. Sims: We can concrete the flow line of the pipe because the deterioration and rust is evident in some of the pipe. It is showing signs of wear and there is a spun concrete lining that you can throw into place, so to speak. The total pipe length is about 350 feet and we will be replacing about 110 feet of it.

Mr. Vincent: We are going to be taking measures to help preserve the remaining pipe?

Mr. Sims: That would be a subsequent project. I do not think we want to try to do it all now because of budgets. We only have the section that is collapsed designed.

Mr. Vincent: Hopefully, we get something done before the rest of the pipe collapses.

Mr. Sims: We are replacing everything that is under the width of the street. The rest of it is buried between lots.

Mr. Baker: What kind of time frame are we looking at and are we going to wait for the rest of it to collapse?

Mr. Sims: No, with the inspections it did not appear as such. What we had was a heavy rain event; the water got underneath the pipe, and folded it up. Then it collapsed on itself. Right now the portion that is collapsed is serving as the flow line to the entrance of the pipe. The water does not seem to be getting under it beyond the collapse. They have walked the entire length and probed the pipe. It does not seem to be too bad, but there are some areas that look like they would be worth pursuing to line it.

Mr. Baker: What is the time frame?

Mr. Sims: Their turnaround time is relatively quick for accessing the grant funds. We do not want to do it right now. We have discussed this with Colony Square Mall and they were hoping to have it fixed by now. We will have the road closed for probably 30 days to do this. We do not want to do this during the Christmas rush. We will be looking at the first of the year. I may have to come back to amend this or do another ordinance for next meeting depending on what I get back from Public Works Commission as far as grant requirements and where we will get the funding from so that will be in the legislation as well.

R. C. for passage  
9 Ayes – 0 Nays  
Motion carried.

Ordinance No. 11-77 - Introduced by Council – An ordinance to revise Section 181.10 of the Codified Ordinances of Zanesville.

Mr. Tilton moved for first reading, seconded by Mr. Hutcheson.

Mr. Roberts: Mr. DuBeck, what are the changes that were made? Is the \$25 the biggest thing?

Mr. DuBeck: We have no late fee right now. We are going to have a \$25 late fee for anyone that files their city tax after April 15<sup>th</sup> whether they owe money or not. In addition to that, the interest will be 18% per year, instead of 6%.

Mr. Zakany: If a person has not made out an income tax to the city and had not lived in the city for about 3 or 4 years, how far back do you go?

Mr. DuBeck: We go back 3 years. We could go back 5 years, but we choose to go back 3 years because that is all the further we go back on refunds. The law states we can go back 5 years.

Mr. Zakany: A person will still have to file their income tax form whether they made any money or not.

Mr. DuBeck: That is correct. Especially if they have rental property or are self employed.

Mr. Tarbert: Is this for filing after April 15<sup>th</sup> or will you be enforcing the estimated payment as well?

Mr. DuBeck: No sir, this is just for tax filing.

Mr. Kilpatrick: Mr. DuBeck, this mentions any tax assessment that results from a Federal Audit. What sort of mechanism do we have between ourselves and the Federal Government to find out...?

Mr. DuBeck: We receive a letter from the I.R.S. if there is an audit on a individual's tax return. If we owe them a refund because of an error on their part that is fine. If they owe us money we find that out, they have 30 days to pay us. There is no penalty or anything assessed on an I.R.S. audit that would result in additional tax to the city.

Mr. Kilpatrick: Let's say someone living in Zanesville but working in another city, how do we know that they are not paying taxes that are due the city?

Mr. DuBeck: There are a lot of businesses that withhold Zanesville tax, where their tax rate is less than ours, that are nice enough to send us W-2's. We go through a lot of tax returns. We do investigations. There are a lot of people that no longer work in the city but live outside the city. If they live in Cambridge and their tax rate is higher than ours, we are not interested in them. If they are working in Columbus, we are not interested because their tax rate is higher than ours. I think Newark might have raised their tax rate. We track a lot of that. We get W-2's from a lot of places.

Mr. Kilpatrick: You have your ways.

Mr. DuBeck: Fortunately, yes we do.

Mr. Baker: Do you have any idea how much the outstanding tax owed to the city of Zanesville actually is?

Mr. DuBeck: The actual tax dollars are probably minimal when we write off the interest and penalties that it is so low that we know we will never see it. We are working on this and I wish I had an answer tonight. This is something the tax administrator and I talked about last week, but it was a matter of taking off interest and penalties. There is no sense in pursuing a single mother who is on welfare that owes us \$150.00 with interest and penalties with the actual tax due maybe \$25,000. In that case we may write it off.

Mr. Baker: Do I have this right, that there is no penalty other than the 6%.

Mr. DuBeck: No, there was another 6% penalty on outstanding balances. There was 1/2% interest and 1/2% penalty per month.

Mr. Baker: As far as you know has that 6% is that a significant amount?

Mr. DuBeck: The interest?

Mr. Baker: Yes.

Mr. DuBeck: It is not so much significant as just trying to get us at the top of the chain instead of loaning money cheaper than the banks and credit cards. We get up down on the bottom of the list.

Mr. Baker: A little proactive?

Mr. DuBeck: Yes, sir.

Mr. Baker: If you could find out that answer, I would be curious.

Mr. Vincent: Is there anything you put out there to help educate the public?

Mr. DuBeck: We are working on that right now.

Mr. Vincent: Beside our website would an article in the Times Recorder help?

Mr. DuBeck: Actually, we are asking them to put an article in the paper and we will add information to the tax returns that will address all the tax changes in the returns we mail. I will probably talk to WHIZ also. I will let them understand that there are changes being made to the tax return.

Mr. Vincent: My thoughts were to help people identify themselves that they should be paying city taxes.

Mr. DuBeck: I believe that everyone that is supposed to be paying city taxes already know that they are to pay. It is just a matter of getting them to do it.

Mr. Vincent: I know there are some grace periods inviting people to....

Mr. DuBeck: We did that. Yes, sir.

Mr. Vincent: One time shot?

Mr. DuBeck: Yes, sir.

Motion carried.

Ordinance No. 11-78 - Introduced by Council – An Ordinance to revise Section 181.03 of the Codified Ordinances of Zanesville.

Mr. Tilton moved for first reading, seconded by Mr. Roberts.

Mr. Kilpatrick: If a business has a loss one year and they make a profit the next year, under this ordinance they would not be allowed to connect the two?

Mr. DuBeck: That is correct.

Mr. Kilpatrick: Is the Federal Government still doing that?

Mr. DuBeck: We are probably one of the last three cities in the State of Ohio that allows a loss period carried forward and we are doing away with it. We cannot afford it anymore and we are allowed to do it.

Mr. Kilpatrick: We are allowed to do it?

Mr. DuBeck: Yes. I would say we are one of three cities in the state and I would tell you that with the upmost confidence.

Mr. Kilpatrick: I think if I was a business owner that would not seem fair to me.

Mr. DuBeck: Life is not fair, sir.

Motion carried.  
Nay – Mr. Kilpatrick

Ordinance no. 11-79 - Introduced by Council – An Ordinance to revise Section 181.11(h) of the Codified Ordinances of Zanesville.

Mr. Tilton moved for first reading, seconded by Mr. Hutcheson.  
Motion carried

Ordinance no. 11-80 – An ordinance establishing sanitary sewer rates.

Mr. Tarbert moved for first reading, seconded by Mr. Tilton.  
Motion carried.

## **ORDINANCES FOR ACTION**

Ordinance no. 11-70 – Introduced by Council – An ordinance authorizing the proper city official to retain the law office of Bricker & Eckler LLP as legal counsel for the city regarding contractor claims at the water plant, pay current invoices, and declaring an emergency.

Mr. Tarbert moved for second reading, seconded by Mr. Roberts.

Mr. Tarbert: I apologize, I was not here for the last meeting, and I read through the minutes. Mr. Hillis, the basis for these claims, Bricker & Eckler drafted the contract?

Mr. Hillis: Yes.

Mr. Tarbert: Are the claims being asserted based on different interpretations of the contract?

Mr. Hillis: Yes. But, different interpretations and...

Mr. Tarbert: Do you understand what I am saying? I draft a contract that is now causing hundreds of thousands of dollars worth of claims and now you hire me to defend the contract that I wrote. Are we satisfied with Bricker & Eckler?

Mr. Hillis: We were satisfied they were the best firm to write the contracts and they have expertise in this construction industry. Who better to argue the contract than the firm that drafted it.

Mr. Vincent: Have we found out any information as far as any additional costs by delaying payment of this?

Mr. Hillis: No. They did not indicate they were charging us interest.

Mr. Sims: I spoke with them and they did not mention to me either. I told him we were in the readings, but we have to go through all three.

Motion carried.

Ordinance no. 11-72 – Introduced by Council – Amending Ordinance no. 97-127, as amended, which authorized a maximum schedule of positions.

Mr. Zakany moved for second reading, seconded by Mr. Hutcheson.

Motion carried.

Ordinance no. 11-61 – Introduced by Council – An ordinance to amend and revise the zoning map and make permanent zoning in the city of Zanesville, Ohio as herein provided.

Mr. Tarbert moved for third reading, seconded by Mr. Roberts.

R. C. for third reading and passage

9 Ayes – 0 Nays

Motion carried.

Ordinance no. 11-63 – Introduced by Council – An ordinance authorizing the proper city official to amend Ordinance # 06-134 and Ordinance #10-13 concerning the cell phone policy of the city of Zanesville.

Mr. Tilton moved for third reading, seconded by Mr. Hutcheson.

R. C. for third reading and passage

9 Ayes – 0 Nays

Motion carried.

## **TRAFFIC ORDERS**

Traffic Order 11-04 – All traffic shall stop on Peters Alley before entering Ball Street.

Mr. Hutcheson moved to concur, seconded by Mr. Zakany.

Motion carried.

## **PRIVATE PETITIONS AND COMMUNICATIONS:**

None.

## **MISCELLANEOUS AND UNFINISHED BUSINESS:**

Mayor Zwelling: The new mayor attended the Doo Wop Concert Saturday night at Secrest Auditorium. John Kunkel stated in all the years he has been at Secrest this was one of the top three concerts. It was sensational. I have never seen as many standing ovations. The enthusiastic crowd for 500 or so, but downside was the \$47.50 ticket. There were a lot of cast members and I think the promoter will take a bath on this show. The people were very happy with the concert.

Coming events at Secrest Auditorium: Wednesday November 16<sup>th</sup> is the Sertoma Pancake Day. That is the day after tomorrow and I just happen to have a pocket full of tickets should anyone need any. The tickets are \$5 in advance and \$6 at the door.

November 26<sup>th</sup> and 27<sup>th</sup> –The East Central Ohio Dance Theater brings the Nutcracker back to Secrest Auditorium to kick off the holiday season. There will be two performances, November 26<sup>th</sup> and 27<sup>th</sup>.

Thursday, December 1<sup>st</sup> will be the Southeast Ohio Symphony Orchestra Holiday Concert and I believe that is a free concert.

Saturday, December 3<sup>rd</sup> the Muskingum Valley Education Service Center High School Choir Concert will take place.

On December 7<sup>th</sup> at 7:00 pm the Collingsworth Family will be in concert with gospel music at Secrest Auditorium and it will be free. Everyone is invited to attend this concert. A food donation will be accepted for Christ's Table.

On Saturday, December 17<sup>th</sup> Ticketcrush Concerts brings Lori Morgan and Pam Tillis in the "Grits and Glamour Tour" to Secrest Auditorium to wrap up 2011.

Mr. Sims: Leaf collection started in the First Ward today and they will be making two passes in each ward. Please look at the schedule through our channel on Time Warner Cable. You may call my office at 455-0650 or the Street Department at 455-0615 for the schedule.

Mayor Zwelling: We had our second negotiations with the Fire Department Local No. 88 today and we have other negotiations scheduled. Mr. Raines please tell them what we have lined up with the negotiations.

Mr. Raines: We have met twice with the firefighters and we will meet with them again next Tuesday. We are negotiating Friday with A.F.S.C.M.E. and in about two weeks we will have our first session with the police union. We will have three contracts to negotiate there.

Mayor Zwelling: Finally, Mrs. Clapper has a wonderful announcement to make.

Mrs. Clapper: In February, 2011 the Muskingum Recreation Center which is a partnership between Muskingum County Community Foundation, Muskingum Family Y, Genesis Healthcare System, and Ohio University came to us and made a presentation regarding their aquatic center they were raising funds to be built at O.U.Z. After that, I began to researching eligibility of the purchase of pool equipment and began seeking out potential funding for that project. I worked with Jim Fonseca who is unable to be here tonight, as he is in Athens at Ohio University. We worked on this project with the department; however, we received a letter on June 10, 2011 from the Ohio Department of Development, the Office of Community Development that advised us, as the city of Zanesville, that we must commit required Revolving Loan Fund contribution of \$89,000 to be eligible for our fiscal year 2011 formula allocation. We then began pursuing that specific project to be used with those funds. We submitted that project to the department to be funded in the amount of \$48,600 for the purchase of 366 items of pool equipment for the recreation center and approval was received in late October allowing the city of Zanesville to fund this project. The recreation center has a solvent plan in place utilizing the skills of Muskingum Family Y to provide opportunities for the LMI residents' children of Zanesville. In addition to the benefits of the residents this facility will also provide economic development by means of job creation, both temporary and permanent; economic benefit from visitors using the center for events held there such as swim meets; will provide an identifiable recreation option that will assist in business attraction to our area. We are proud to say that we are going to be supporting that project in the amount of \$48,600. I will be presenting an ordinance to appropriate these funds and to advertising and entering into a contract for purchase.

Mayor Zwelling: Thank you, Mrs. Clapper. We are happy to be part of the fund raising. They have raised over \$5 million and they can borrow the rest which is another \$5 million plus.

Mr. Tilton moved to adjourn, seconded by Mr. Zakany.

Motion carried

Meeting adjourned at 7:38 pm.