

CITY COUNCIL MEETING – MONDAY, AUGUST 10, 2015

The Council of the City of Zanesville met in regular session at 7:00 p.m. on Monday, August 10, 2015 in the City Council Chambers, 401 Market Street, Zanesville, Ohio.

Mr. Vincent led those present in the Lord's Prayer and the Pledge of Allegiance to the Flag.

The following members of Council answered Roll Call: Ms. Gildow, Mr. Foreman, Mr. Sharrer, Mr. Tarbert, Mr. Baker, Mrs. Gentry, Mrs. Norman, Mr. Hutcheson, Mr. Roberts, and Mr. Vincent.

APPROVAL OF MINUTES

Mr. Hutcheson moved to accept the July 27, 2015 minutes as printed, seconded by Mr. Roberts.

All were in favor. None were opposed.

Motion carries. Minutes stand approved.

COMMUNICATIONS, REPORTS, AND RESOLUTIONS

Ms. Gildow: I request that we add a communication from Rhonda Heskett, Budget and Finance Director, please.

Mr. Vincent: A motion by Ms. Gildow to add in the communication from Ms. Rhonda Heskett.

Mr. Baker seconded.

Mr. Vincent: Any discussion?

Mr. Roberts: What is this amendment or addition?

Mr. Vincent: Let's go ahead and get it in and then we will discuss it. I am sorry. Okay, never mind, Ms. Heskett, do you want to go ahead and explain it?

Mr. Heskett: Sure. This is the annual Local Government Revenue that is certified to us from the county and basically it is just a communication letting Council members know how much we will be receiving in 2016 and then asking for your signature if you are in agreement with it.

Mr. Roberts: Thank you.

Mr. Vincent: Yes, with that, it did come in late and it was a last minute piece of information received and there is a quick turnaround time and a quick deadline.

Ms. Heskett: Yes. That is correct.

Mr. Vincent: Okay, so all in favor of adding this in to the agenda under Communications, Reports and Resolutions signify by saying aye.

All were in favor. None were opposed. Motion carried.

Communication from Rhonda Heskett, Budget & Finance Director – Local Government Revenue FY 2016 pursuant to ORC 5705.281 in the amount of \$682,440.93.

Mr. Vincent: Now I need a motion to receive this communication.

Mr. Tarbert moved, seconded by Mr. Baker.

Mr. Vincent: Is there any discussion? Hearing nothing, all in favor of receiving, signify by saying aye.

All were in favor. None were opposed. Motion carries. The communication has been received.

With that, we are going to pass this around as Council members need to sign off on this.

PROPOSED ORDINANCES

Ordinance No. 15-91 - Introduced by Council – An Ordinance enacted by the City of Zanesville of Muskingum County, Ohio for resurfacing and related work on US 40 and State Routes 60/60D/60G/146.

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

Mr. Vincent: Is there any discussion? With that, Mr. Hillis, on this is it okay to fill in these Ordinance numbers later on? We have it up above, but we don't have it on the first page or further back in. Do we need to amend that last page and first page? The top line talks about: "the following is Ordinance 15- blank".

Mr. Hillis: If you know the Ordinance number I would suggest that you fill it in now. I thought at the top it says Ordinance 15-91.

Mr. Vincent: Okay, does it need to say it throughout the document?

Mr. Hillis: I am asking is that the right Ordinance?

Mr. Roberts: It is.

Mr. Hillis: Then it makes sense for someone to have managed to insert 91 in that paragraph.

Mr. Vincent: Then also on the back page. So looking for a motion from Council if they like regarding first line, first sentence, as far as the following is filling in the blank there Ordinance 15-blank to put in 91. Then on the back page then also, that document about the fourth line down, also fill in the blank line 15-91.

Mr. Tarbert moved, seconded by Mr. Roberts.

Mr. Vincent: Is there any discussion? All in favor of the amendment signify by saying aye. None were opposed. The amendment is adopted. Now I need a motion for first reading as amended.

Mr. Roberts moved and Mr. Tarbert seconded.

Mr. Vincent: Is there any discussion? All in favor of first reading of 15-91 as amended signify by saying aye.

All were in favor. None were opposed.
Motion carries.

Ordinance No. 15-92 - Introduced by Council – An Ordinance authorizing the appropriate city official to enter into an agreement with South Rebels Bidy League Football for management/use of a particular section of Riverside Park Complex, and declaring an emergency.

Mr. Vincent: A motion to waive or first reading.

Mr. Hutcheson moved to waive, seconded by Mr. Foreman.

Mr. Vincent: Is there any discussion on waiving? Hearing none, we will have roll call vote for waiving of the readings.

Roll call vote on waiving of the readings.
9 Ayes
0 Nays
Motion carries.

Mr. Vincent. Now I need a motion for passage.

It was moved by Mr. Roberts, seconded by Ms. Norman.

Mr. Vincent: Is there any discussion?

Mr. Tarbert: I talked to Mr. Bennett today and I think on our desks, I want to make sure we were passing the right Ordinance. The one that came to us has, I think, been amended. The one on our desk is just taking out in paragraph two where it says "furnish lighting if needed; and" has been stricken. And then there is an attachment that shows the area that is discussed in the Ordinance that we received, but the attachment was

inadvertently left off that ordinance, but that attachment is in front of us tonight. But I feel like I should make an amendment to add the attachment and strike that language “furnish lighting if needed; and”. So moved.

Mr. Vincent: A motion by Mr. Tarbert to strike out in the contract then under number 2 the “furnish lighting if needed; and”, and then also adding in the attachment designating the specified area for them to use. Is that correct?

Mr. Tarbert: Yes.

Mr. Sharrer: I second.

Mr. Vincent: Is there any discussion on that amendment or any clarification needed? Okay, all in favor of that amendment signify by saying aye.

A voice vote was taken with all in favor. None were opposed.
Motion carries.

Mr. Vincent: We are at Ordinance 15-92 as amended. We have it waived so I need a motion for passage.

Ms. Gildow moved, seconded by Mr. Foreman.

Mr. Vincent: Is there any further discussion?

Mr. Sharrer: I believe, Mr. Bennett, is there any need to involve the other members or is this an area that's unused or unmanaged by our current agreements in place for Riverside?

Mr. Bennett: This area is not encumbered by any other lease with the City. There has been practice going on, soccer practice. I had conversation with ROSA. They have looked at it is an area that they feel like they can work with them. Especially, the big thing for ROSA would be in the spring. This doesn't affect the spring since it is a fall sport.

Mr. Vincent: Is there anything else from Council? Mr. Hillis, the insurance on these talks about one million per occurrence. Typically we have a three million aggregate. Is that important that we don't have that included in there?

Mr. Hillis: Well, it is Council's prerogative. I mean if they put in the agreement of one million dollars I think we took that from the last agreement.

Mr. Bennett: It is what South Rebels has. They have that currently where they're at now and they have named the Fieldhouse as additional insured. So they have that amount.

Mr. Vincent: Okay. Is there anything else from Council? Hearing nothing else, we will have roll call vote for passage.

Roll call vote for passage.

9 Ayes

0 Nays

Motion carries. Ordinance is passed.

Ordinance No. 15-93 - Introduced by Council – An Ordinance amending Ordinance No. 14-86 which authorized the appropriate city official to extend the agreement with Muskingum County for the supply of water, and declaring an emergency.

Mr. Sharrer moved to waive the readings and it was seconded by Ms. Gildow.

Mr. Vincent: Is there any discussion on waiving? Hearing none we will have roll call vote for waiving of the readings.

Roll call vote on waiving of the readings.

9 Ayes

0 Nays

Motion carries.

Mr. Vincent: I now need a motion for passage.

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

Mr. Vincent: Is there any further discussion? Hearing none, we will have roll call vote for passage.

Roll call vote for passage.

9 Ayes

0 Nays

Motion carries. Ordinance is passed.

Ordinance No. 15-94 - Introduced by Council – An Ordinance authorizing the assessment of liens against certain properties with delinquent bills, and declaring an emergency.

Mr. Sharrer moved to waive the readings and it was seconded by Mr. Foreman.

Mr. Vincent: Is there any discussion on waiving? Hearing none, I will have roll call vote for waiving of the readings.

Roll call vote on waiving of the readings.

9 Ayes

0 Nays

Motion carries.

Mr. Vincent: I now need a motion for passage.

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

Mr. Vincent: Is there any discussion?

Mr. Sharrer: Mr. Bennett, it is my understanding that this is kind of new as to it coming before Council to get, can you kind of give a history of how or why that came about?

Mr. Bennett: We received notice a few months ago that the County Auditor made a determination that what normally the assessments were certified by the Director or the Clerk. This year they would require legislation passed by the Council. They had very specific language as to what the Ordinance contained and the attachments as far as what information was provided. We have complied with what they are asking for and they needed it by the middle of this month so being the fact that we had previously provided notice to property owners who were going to be assessed that they had X amount of months to pay that. The last allowed date we gave was an August 10th date. So we wanted to honor what we told them months ago that they would have until this time to get it paid hence why the need for the emergency in order to get it to the County Auditor.

Mr. Sharrer: Thank you.

Mr. Vincent: Is there any further discussion? Okay, we will have roll call vote for passage.

Roll call vote for passage.

9 Ayes

0 Nays

Motion carries. Ordinance is passed.

Ordinance No. 15-95 - Introduced by Council – An Ordinance authorizing the appropriate city official to waive the ordinary rental fees charged for Secret Auditorium for the November 6, 2015 program honoring veterans.

Mr. Vincent: We are at first reading.

Mr. Tarbert moved for first reading, seconded by Mr. Foreman.

Mr. Vincent: Is there any discussion? Hearing none, all in favor of first reading signify by saying aye. All were in favor. None were opposed.

Motion carries.

ORDINANCES FOR ACTION

Ordinance No. 15-87 - Introduced by Council – An Ordinance amending Ordinance No. 00-16, which adopted a classification plan for city employees; amending Ordinance No.

13-15 (Amended), which authorized a maximum schedule of positions; and amending Ordinance No. 13-16 (Amended), which established pay, benefits and employment policies for unaffiliated employees.

Mr. Vincent: We are at second reading.

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

Mr. Vincent: Is there any discussion? Hearing none, all in favor of second reading signify by saying aye. All were in favor. None were opposed.

Motion carries.

Ordinance No. 15-78 – Introduced by Council – An Ordinance authorizing the proper city official to establish a Fire Capital Projects Fund.

Mr. Vincent: We are at third reading.

Mr. Sharrer moved for third reading and passage, seconded by Mr. Tarbert.

Mr. Vincent: Is there any discussion? If no discussion, we will have roll call vote for passage.

Roll call vote for passage.

9 Ayes

0 Nays

Motion carries. Ordinance is passed.

Ordinance No. 15-81 A - Introduced by Council – An Ordinance allowing a moral claim.

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

Mr. Vincent: Is there any discussion? There are there no petitions? Okay, we will have roll call vote for passage.

Roll call vote for passage.

0 Ayes

9 Nays

Motion carries. Ordinance is defeated.

Ordinance No. 15-82 A - Introduced by Council – An Ordinance allowing a moral claim.

Mr. Vincent: We are at third reading.

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

Mr. Vincent: Is there any discussion? With that I do have Susan Ryan of 1227 Canfield Road, Zanesville, Ohio to speak in favor of this Ordinance. With that Mrs. Ryan, you have three minutes to speak here.

Mrs. Ryan: I am here and I am just hoping that the City will

Mr. Vincent: Ma'am if you could speak a little louder and speak into the microphone that would be helpful. I haven't heard anything heard anything you said so far.

Susan Ryan: I am here just hoping the City will have my car repaired and get another shed for me where the City's tree fell on it and damaged my shed and my car. That is all I have to say.

Mr. Vincent: Do we have another one for her daughter?

Clerk: She did not submit one.

Mr. Vincent: Okay, thank you. Is there anything else from Council?

Mr. Baker: Just as a reminder I believe that a couple of meetings ago everybody saw the pictures of the damaged caused by the trees to the shed and the car and the property in general. Now the trees were on essentially public property, City property. Through no fault of her own she is now out her property. Just as a brief recap.

Mr. Vincent: Thank you Mr. Baker. Is there anything else from Council?

Mr. Sharrer: I'm a little confused I guess. With this I know that I recently had a neighbor's tree fall on my house and my homeowners insurance had to cover that. It wasn't my neighbor's homeowners insurance that had to cover it; it was mine. I guess I am wondering what the difference is here.

Mr. Vincent: I can't answer that and maybe Mr. Hillis can address that. It is my understanding as far as if the City is aware there was an issue with the tree and they don't take care of that issue and it falls then that creates liability.

Mr. Hillis: Yes, generally speaking that is correct. This claim was sent to our insurance company because of the amount of it. Our insurance company researched it and drafted an opinion that they were denying coverage because there was no legal liability. That is what the insurance informed us and that is why she has submitted a moral claim saying I know you are not legally responsible to pay it, but you ought to be morally responsible to pay it. So that is the basis of the claim. I would agree with your statement that legally we are not required to pay it. That is why the claim was denied.

Mr. Baker: From what I understand, is that unless the City actually has cause to believe that the tree could fall, it was rotted and they have been informed of it for instance, but they did nothing about it, then it is considered to be an act of God. As an act of God the City is not responsible from a legal standpoint. Is that right, Mr. Hillis?

Mr. Hillis: Yes, that is essentially it.

Mr. Roberts: Mr. Hillis, just as another point of clarification did the property owner in question have homeowners insurance as Mr. Sharrer alluded to?

Mr. Hillis: I don't know whether she property insurance or not. That wasn't germane to my determination as to whether or not we were legally owed it. It was irrelevant whether she had insurance or not as to whether we had a legal liability for it.

Mr. Roberts: Understood.

Mr. Vincent: Is there anything else from Council?

Mr. Baker: If it is a selling point would you like for Mrs. Ryan to answer that question?

Mr. Roberts: If the President of Council deems so.

Mr. Vincent: With that I will entertain a motion for Mrs. Ryan to speak again.

Mr. Roberts moved for Mrs. Ryan to speak again. It was seconded by Mr. Baker.

Mr. Vincent: All in favor of allowing Mrs. Ryan to speak again signify by saying aye. All were in favor. None were opposed. Motion carries. Mrs. Ryan please come up and you get an additional three minutes.

Mrs. Ryan: I have been up there since 1985. And the same part of the tree, there used to be three trees there and years ago one of them fell on my son's car and the City had no problem with paying for it. Then I put my shed there and another one of the trees fell on it. Now the City is trying to deny me that they are not going to pay for it when they paid for it earlier. There is one tree standing now. I have complained about the trees for years and the water damage. I have complained about the trees forever.

Mr. Vincent: With that Mrs. Ryan they had a specific questions they wanted answered as far as you wanted to know whether she had homeowners insurance.

Mr. Roberts: Yes.

Ms. Gildow: And car insurance?

Mrs. Ryan: No. I had liability on the car.

Mr. Vincent: No homeowners insurance.

Mr. Baker: Once again, Mrs. Ryan, you have lived there for how long?

Mrs. Ryan: Since 1985.

Mr. Baker: As long as you've been there those trees have been overhanging the property with a potential for falling and damaging.

Mrs. Ryan: I have been calling the City about the trees since I have been there. I have been calling the City about the water washing and they just don't seem to bother about fixing or cutting it down or anything. They are not my trees so I can't cut them down. If that would have been the case I would have cut them down a long time ago.

Ms. Gildow: Is there a department who would have received the phone calls complaining about this? Do we have anything on record showing that there were complaints about those trees?

Mr. Vincent: Mayor Tilton

Mayor Tilton: I and Mary Bush, who is in purchasing, went back through the Board of Control meetings and we went clear, back through 1985 and nowhere could we find that we paid for that damage. Any time we pay for damage it was by the Law Director saying it was a legitimate claim. We went back clear through 1985.

Mr. Vincent: Okay with that Mayor, we would have been legally liable at the time for the Law Director's office to pay?

Mayor Tilton: Any time we paid for damage it was a opinion of the Law Director is how we paid it.

Mr. Baker: So the same situation happens on two different occasions separated by a decade and the only thing that has changed is the Law Director and the opinion?

Mayor Tilton: No, there was never anything from Canfield.

Mr. Baker: You have not record of it at all?

Mayor Tilton: No record of ever a moral claim coming before the Board of Control.

Mr. Baker: So basically you have Mrs. Ryan's word.

Mayor Tilton: Exactly right.

Mr. Baker: So she didn't write a huge check to take care of the property that was damaged the first time around.

Mayor Tilton: We did not. It didn't go through the Board of Control which they did.

Mr. Vincent: With that, Mr. Hillis, did you want to comment on something else?

Mr. Hillis: I just want to make it clear that the procedure when a legal claim gets submitted to the City it goes to the Clerk, and then goes to the department head involved, and they do an investigation, it then comes to the Law Director's office whose sole job is to give an opinion to the Board of Control which is consistent of the Mayor, the Safety Director, and the Service Director as to whether or not there is legal liability. The board votes on whether or not to settle a claim or not settle the claim. What the Mayor has indicated to me is that he searched the records back to 1985 and there has never been an opinion or recommendation by me or any other Law Director to pay for damage caused to this person. I don't know. I wasn't here in 1985; all I can do is trust that the Mayor and the secretary of the Board of Control accurately looked at the records and said there was never anything paid.

Mr. Baker: Mr. President, maybe Mrs. Ryan would like to speak again and I would like to allow her to do that.

Mr. Vincent: So, you make a motion to allow Mrs. Ryan to speak an additional three minutes.

Mr. Baker: Yes.

Mr. Hutcheson seconded.

Mr. Vincent: All in favor of allowing Mrs. Ryan to speak for an additional three minutes signify by saying aye.

All were in favor. None were opposed. Motion carries.

Mrs. Ryan: Since this happened we asked the City not to remove the trees on account of insurance purposes with the other cars. But as soon as we found out that it was the City's fault they came up and removed the trees off of the cars and the shed. The City men came up and removed it. I did not have it removed; the City had it removed. A tree fell on my house back in, I don't know what year it was, and they came up and fixed it then when a tree fell on my house. They put a new roof on it. I don't know what year that was. I couldn't tell you.

Mr. Vincent: Mr. Baker, are you wanting additional information, are you wanting to table it?

Mr. Baker: No, I don't think that is necessary. I just want to say let's take this back to basics. Because it is an act of God we are not legally responsible according to the Law Director.

Mr. Hillis: And the insurance company.

Mr. Baker: And the insurance company, of course, not just the Law Director. We have an individual who through no fault of her own, bordering City property, had a City tree falling on her property and damaging it. That is really what it comes down to. She is not

at fault in any way. It is not a matter of anything that she did. That is really what the crux of a moral claim is all about. We are not legally responsible; but morally perhaps?

Mr. Vincent: Is there anything else from Council? Okay, we will have roll call vote for passage.

Roll call vote for passage.

2 Ayes

7Nays

Motion carries. Ordinance is defeated.

Ordinance No. 15-44 - Introduced by Council – An Ordinance amending Chapter 111 of the Codified Ordinances of the City of Zanesville.

Mr. Vincent: We are at third reading.

Mrs. Norman: Mr. President, I make a motion that we table this Ordinance for another two weeks to give the community an opportunity to review what we have changed on this Ordinance.

It was seconded by Mr. Baker.

Mr. Vincent: A motion by Mrs. Norman to table for an additional two weeks to allow for community input on this. It was seconded by Mr. Baker. All in favor of tabling for an additional two weeks, signify by saying aye.

Mr. Baker: Can we discuss that?

Mr. Vincent: Not tabling. No.

Mr. Baker: Okay.

Mr. Vincent: We had a lot of people here who wanted to speak but okay; so all in favor of tabling signify by saying aye.

All were in favor except Mr. Roberts. Mr. Roberts was opposed.
Motion carries.

Mr. Vincent: So noted, it is tabled for two weeks. So with that when tabling Council does not get to speak on it and everyone who came tonight, sorry to say you do not get a chance to speak on it until it comes back.

TRAFFIC ORDERS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Mayor Tilton: As you know that you put the taking care of the Times Recorder building into the CIC hands. I will tell you, tomorrow we will have a meeting with the subcommittee that was set up to take care of that situation; you, Mr. Roberts, myself, and Mr. Bopeley. I have a draft and I hope you received it today on what we will be discussing tomorrow.

Mr. Vincent: Yes, sir, we did. Thank you, Mayor. Is there anything else from Administration or Council?

Mr. Bennett: A meeting tomorrow night at 6:00 p.m. at the Veterans Complex at the Fairgrounds for discussion about brownfields and looking long term towards redevelopment in the Springfield Township lower part of Brighton Avenue.

Mr. Vincent: Thank you, Mr. Bennett: Is there anything else from the Administration or Council?

Mr. Baker: The tabling of 15-44 I think was

Mr. Vincent: With that, sir, because we have tabled it, we cannot discuss it.

Mr. Baker: We can't talk about it at all?

Mr. Vincent: If you want to bring it back up and vote on it?

Mr. Baker: No, I will just say community input is very important and leave it at that.

Mr. Vincent: Is there anything else from Council?

PRIVATE PETITIONS AND COMMUNICATIONS

Eric Jones, 221 Luck Avenue, Zanesville, Ohio regarding I assume, court case update.

Mr. Eric Jones: We I have a court case to go in front of Monday at Municipal Court about being disturbing a lawful meeting. I have been given a plea bargain of \$100 and sort of like a two year restriction from coming down here. I am letting you know that I will of course decline. I think I am going to take the full punishment and the full whatever jail time. I would rather it had been not being able to come down here for two years. I just can't see it. So I am letting you know there is going to be a jury trial eventually. Look what I got there. When I got the warrant, I will say this, when I got the warrant to be put in front of the court the warrant was for my arrest. I mean arrest on sight. To be arrested on sight by police officers. It was a fourth degree misdemeanor folks. It should have been a citing into court; that is what it should have been. Too many things could go wrong. What could have happened, and what I need the community to understand, if I hadn't reacted, if I hadn't found out about that and the nice police officer walked into this meeting and he said Mr. Jones you are under arrest, how I would react depended on whether I would be killed in front of the video tape. I could have stood up, because I am 6'6", kind of a big guy. The police officer could have thought I was going to hurt him. He

could have reached for his gun and now what do I do? Everybody is giving me the eye. Only if you are black does this make sense. If you are white, the police officers are your friends. Black people have been killed by police officers for a long time. If you are not trained for it; most people aren't, I could have reacted wrong, all because of a clerical error because everybody would have had plausible deniability. They didn't know that I was to be cited to court and not arrested on sight. I was in the room. You are all looking at me saying Eric got the information, but luckily I went home and found out about it and took care of it before I got here. I keep going over it in my mind saying guess what? What if I didn't do that? What happens then? There is only a 20% chance that I would have done something wrong. Normally I would have put my hands behind my back and say like now but you never know what you are going to do in public, folks. As I say, just a simple act of standing up and saying what are you talking about? The game could have changed. So, I am just letting you know that the jury trial is going to be coming soon. Thank you very much.

Mr. Vincent: Is there anything else? Mr. Hillis, is there anything you wanted to add to that? No. Is there anything from Council?

Mr. Hutcheson moved to adjourn, seconded by Mr. Sharrer.

Mr. Vincent: All in favor of adjourning signify by saying aye. None were opposed. Motion carries. We stand adjourned. Thank you everyone and have a good night.

The meeting concluded about 7:40 p.m.