

ZANESVILLE CITY COUNCIL MEETING – MONDAY, JUNE 26, 2017

The Zanesville City Council met in regular session at 7:00 p.m. on Monday, June 26, 2017 in the City Council Chambers, 401 Market Street, Zanesville, Ohio.

Mr. Vincent announced a special guest, Miley Fulkerson. She is very excited about joining us this evening and she has questions for us afterward. She is accompanied tonight by her parents, Rick and Lisa Fulkerson, and her aunt Vicky Kirk who we know here at the City as she has been here many times and doing an excellent job. Miley, we are delighted you are here.

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: Mrs. Norman, Miss Bradshaw, Ms. Gildow, Mrs. Osborn, Mr. Wolfe, Mr. Foreman, Mr. Roberts, Mr. Baker, Mrs. Gentry, and Mr. Vincent.

APPROVAL OF MINUTES

Mrs. Osborn moved to accept the minutes as presented, it was seconded by Mr. Wolfe.
Motion carried.

COMMUNICATIONS, REPORTS, AND RESOLUTIONS

None

PROPOSED ORDINANCES

Ordinance No. 17-67 – Introduced by Council – An Ordinance enacted by the City of Zanesville of Muskingum County, Ohio to upgrade Traffic Signals and Ohio Southern Railroad Crossing on US Route 22 within the City of Zanesville as part of PID 105669, MUS-US 22/SR 719-10.00/00.00 OSRR.

Mr. Roberts said this did come out of committee with a recommendation to waive.

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

Roll call vote on waiving of the readings.

9 Ayes

0 Nays

Motion carries.

Mrs. Norman moved for passage, seconded by Miss Bradshaw.

Roll call vote for passage.

9 Ayes

0 Nays

Motion carries. Ordinance is passed.

Ordinance No. 17-68 – Introduced by Council – An Ordinance to authorize and promote art displays in and on public spaces.

Mr. Baker moved for first reading, seconded by Miss Bradshaw.

Mr. Vincent: Is there any discussion?

Mr. Baker: This came out of the Community Development Committee which this was recommended to Council unanimously. The committee feels this is an excellent display of the potential of what can happen with cooperation between the Art Community here in town and local government. So, we expect great things from this.

All were in favor of first reading. None were opposed.
Motion carries.

Ordinance No. 17-69 - Introduced by Council – An Ordinance - Introduced by Council – An Ordinance authorizing the waiver of water tap fees associated with the development of Olga’s Children’s Garden.

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

Mr. Roberts: There was a recommendation from the Public Service to approve this Ordinance.

All were in favor of first reading. None were opposed.
Motion carries.

Ordinance No. 17-70 – Introduced by Council – An Ordinance amending Appropriation Ordinance No. 17-31 and declaring an emergency.

Mr. Roberts moved to waive the readings and it was seconded by Miss Bradshaw.

Mr. Vincent: Is there any discussion on waiving?

Ms. Gildow: The recommendation came from Ways & Means to waive the readings and for passage.

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

Mrs. Norman moved for passage, seconded by Mrs. Gentry.

Roll call vote for passage.

9 Ayes

0 Nays

Motion carries. Ordinance is passed.

Ordinance No. 17-71 – Introduced by Council – An Ordinance authorizing the proper City official to dispose of surplus property.

Mr. Baker moved for first reading, seconded by Ms. Gildow.

Mr. Roberts: Was this the one we needed to have waived in order to get it on for July 10th? It was and Ms. Heskett is to check with the Fire Chief.

Mr. Roberts moved to waive the readings and it was seconded by Mr. Baker.

Mr. Vincent: Is there any discussion on waiving? It was in committee and the thought was to get it in with the next auction of City property. Do we need emergency language?

Ms. Heskett said that an emergency language is entirely up to Council. The auction is being advertised and it can go beyond July 10 which is the opening day, but we can put this on after the July 10th date. We have already advertised and the items that are on Gov Deals will not all open up on the same day as they are staggered and that is how it is done so we can put this one on last.

Roll call vote on waiving of the readings.

9 Ayes

0 Nays

Motion carries.

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

Roll call vote for passage.

9 Ayes

0 Nays

Motion carries. Ordinance is passed.

Ordinance No. 17-72 – Introduced by Council – An Ordinance allowing a moral claim.

Mr. Roberts moved for first reading, seconded by Ms. Gildow.

Mr. Roberts: There is a recommendation from the Public Service Committee to pay this claim in full.

All were in favor of first reading. None were opposed.

Motion carries.

ORDINANCES FOR ACTION

Ordinance No. 17-63 – Introduced by Council – An Ordinance authorizing the proper city official to purchase a 2018 Western Star 4700 Roll-Off Truck for the Wastewater Division through either the State of Ohio Cooperative Purchasing Program-State Term Schedule or through a competitive bidding process.

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

Mr. Vincent: Is there any discussion? All were in favor of second reading. None were opposed. Motion carries.

Ordinance No. 17-64 - Introduced by Council – An Ordinance authorizing the waiver of water tap fees associated with the development of the McIntire Nature Reserve & Education Center.

Mr. Foreman moved for second reading, seconded by Mrs. Gentry.

Mr. Vincent: Is there any discussion? All were in favor of second reading. None were opposed. Motion carries.

Ordinance No. 17-65 – Introduced by Council – An Ordinance relating to a Recreational Trail Lease with the State of Ohio Department of Natural Resources; authorizing the Public Service Director permission to develop and operate recreational trail on portions of State of Ohio's Lock #10 Canal Park property and authorizing the Director to execute the Management Lease Agreement for this property use.

Mr. Wolfe moved for second reading, seconded by Ms. Gildow.

Mr. Vincent: Is there any discussion? All were in favor of second reading. None were opposed. Motion carries.

Ordinance No. 17-66 – Introduced by Council – An Ordinance authorizing the Public Service Director permission to execute a Transfer of Water Facilities Agreement with Muskingum County.

Mr. Wolfe moved for second reading, seconded by Mr. Foreman.

Mr. Roberts: This was discussed in the Public Service Committee and is recommended to be approved.

All were in favor of second reading. None were opposed. Motion carries.

Ordinance No. 17-61 - Introduced by Council-An Ordinance allowing a moral claim.

Ms. Gildow moved to postpone this Ordinance for further investigation as we have conflicting information and I would recommend that the water tap be closed again as it was to see if the property owners still have water because it is very difficult to make a decision on a moral claim when we can't ascertain which information is accurate. I move to postpone until the investigation is completed. I would hope it would be by the next meeting with the permission of the property owners.

Mr. Nolan said it is not the same valve under the ground since it was taken out.

Mr. Vincent said, sir, I am sorry; I need to be fair to everyone so I can't allow you to speak unless Council wants to make a motion for them to speak. We already have a motion on the floor so let's get this.

There is a motion from Ms. Gildow to postpone this until the investigation is completed. Mr. Tarbert, is that sufficient saying until the investigation is completed is that defined well enough?

Mr. Tarbert said no, we need to be certain.

Mr. Vincent do you want to postpone it until the next meeting and postpone it again if needed?

Mr. Gildow said yes, postpone until the next meeting.
Miss Bradshaw seconded the motion.

Mr. Baker asked can you tell me one more time what it is that needs investigated. What are we going to do with the valve?

Ms. Gildow said theoretically the Water Department could go up and similarly to what was done at the time there was a leak; turn it off to see if that results in the water service stopping to the property.

Mr. Baker asked Mr. Bennett if there is a chance that it could give us additional needed information.

Mr. Bennett said well, it certainly will provide information. Relative to the claim in front of you, Council will have to determine whether that is relevant.

Mr. Baker said he would like to make a motion to allow the Nolan's to speak.

Mr. Vincent: We have a motion right now on the floor so we are going to have to vote on this and once it is postponed, we cannot discuss it any further.

Mr. Baker said so they can't weigh in because of parliamentary procedure?

Mr. Vincent said I don't see any way around this unless she wants to withdraw her motion.

Ms. Gildow said she will temporarily withdraw my motion.

Miss Bradshaw agreed.

Mr. Baker moved to allow both of the Nolan's to speak if they so choose on this issue. Ms. Gildow seconded.

All were in favor. None were opposed.
The motion carries.

Jennifer Nolan and Johnny Nolan, 2375 Shimoda Lane, Zanesville, Ohio.

Mrs. Nolan said they could answer any questions that you have. There was a leak under the sidewalk in front of our commercial property. We own Four Season Graphics on Greenwood Avenue. The plumber who came to repair it has advised us the leak was on the City's side. We observed ourselves the leak coming from the City's side. We actually asked for this bill to be paid in full by Council although at the Public Service Committee meeting we discuss potentially just splitting it since at this point it seems to be in a deadlock as to whose responsibility it is to cover it. We would be fine with that settlement I think at this point. If you have any questions, we are pleased to answer them.

Mr. Vincent verified so you said you would be fine with the settlement as far as splitting it.

Mrs. Nolan said yes.

Mr. Vincent said as it was recommended in the Public Service Committee meeting.

Mr. Baker asked if Mr. Nolan could finish the thought that he had before you were recognized about the valve.

Mr. Nolan said I don't know what turning a new valve is going to prove against the old valve that is apparently in possession of Paul Mills, the Water Superintendent. If we are going to compare apples to apples we should probably do it with the same valve. I don't understand the confusion now at this point. It seems like we are just spinning this thing in a circle.

Mr. Wolfe: I think the confusion was if I recall from that meeting is that the valve was turned off and yet you still had water which didn't equate or make sense. There is some concern at the committee that perhaps there is another line serving that we should address. I think they want, if I understood from your motion earlier, or our presented motion, is to shut the valve off and see if you still have service to see if there is something else that needs to be done. Almost unrelated to this claim, and yet it is related to the claim because it came about, but is just making sure your service is fully restored. So I think that is what they were trying to determine.

Mr. Nolan said that is fine. I know that line and the sidewalk where my meter is at is about, I could probably spread my arms and it all touches and makes sense. So, if that is what you want to do, that is totally up to you.

Mr. Wolfe: I think, like you said, we did discuss it at the committee and kind of had a recommendation, but with this other information they just want to do one more look see, I guess you could say and I think that is why they were trying to send it to the next meeting.

Mr. Roberts: I understand what Councilperson Gildow and Councilperson Wolfe were just talking about, but the amount of time we spent on this in Public Service Committee I don't think we are going to come to any further conclusion as far as the situation we have at hand. The situation we have at hand is the property owner is saying one thing and the City personnel saying something else I don't know that any amount of diagnostics are going to fix that issue. Would you guys be in?

Mr. Nolan agreed.

Mr. Vincent asked if Mr. Roberts wants to make a motion.

Mr. Roberts said there is a recommendation from Public Service Committee to pay half of the amount which would equate to \$1,166.98.

Mr. Vincent said before you make that as a motion, I am sorry I cut you off. Did you want to say something, Ms. Gildow?

Ms. Gildow well, no. Well, I guess I do. Just that trying to be fair to a City Department and also property owners and I guess part of this is to try to avoid having something like this happen. Moral claims are never easy, but this one is particularly difficult because the information is conflicting and it appears that people are going to be upset no matter what. So in that light and the fact that an inspection isn't going to make it better then I won't make the motion again.

Mr. Vincent: We heard from the Nolan's as far as they were fine with what came out of the session. So if that is any help to you, I am not sure.

Mr. Wolfe said I am prepared to vote as I did at committee, but I would still be interested, just for your benefit and ours, if we shut that value off if you still have service and addressing that issue as a separate issue unrelated to this for your benefit and for ours if there is some type of line or something that doesn't affect the amount of the flow or the voracity of this claim. I am on board to more that forward and then to verify that piece of it.

Mr. Vincent: With that Mr. Bennett, I think out of it the committee's discussion was helping to make sure this is avoided or if there are some steps we can do to come up with to help in the future. I guess it is more on the other moral claim, but with that I guess what Mr. Wolfe's request, as far as checking it out, I think that would be of interest as we are all kind of scratching our heads on why water was still running for a week when we had shut it off.

Mr. Bennett said so are we? Our staff person on site clearly told the committee that he went up and turned it off, listened to it and it was off. They still had water. We certainly don't disbelieve what they are saying; it just is our staff person clearly has done this numerous, numerous, times over several years that water was off.

Mr. Vincent said that is not my point. My point is

Mr. Bennett said I am not sure how we don't do what we always do.

Mr. Vincent said I guess, figuring out where the water is coming from. Obviously, we shut the water off and are confident of that, but they still had a water supply so it would be awful if something happened there is another work around water supply somewhere.

Mr. Bennett said I am not sure what that is, Mr. Vincent, but we will certainly explore.

Mr. Vincent said if shutting it off took care of it then okay, maybe the valve was faulty, if it doesn't shut it off then we must have another supply someplace. Just sharing what I think Mr. Wolfe was saying. Thank you Mr. Bennett.

Mr. Foreman said I understand there are some extenuating circumstances to this claim and it makes it very different, but I guess my question, and I would direct this to attorney Tarbert. Was there anything that would make, moving forward, I am just thinking about going forward that by granting this moral claim that it would make it difficult or in any way different in the future when we have such cases? We do have a lot of situations that involve water and I am just thinking about is there anything that because we grant this that there could be a property owner who says I saw that leak on my side so use this as kind of a pretext. I know that is a very broad question, but I am trying to think about moving forward.

Mr. Tarbert said of course that could happen to you as Council and you would have to investigate it. As far as the legal claim, no. It wouldn't make a difference on the legal side of it. Yes, you have had moral claims for the last 1,500 years and each one is evaluated on its own merits and you have to make a decision on each one. So it could create a precedent for future moral claims, but again the committee and Council will just have to investigate those for voracity and make a determination.

Mr. Baker for what it is worth. I have been doing this for a while now and I do not remember a single time when somebody tried to convenience Council that their moral claim should be passed by referring back to another decision we made on a moral claim. Now, we don't pass that many obviously. They are very few and far between, but it has never happened in my experience. So I don't think that is too much of a concern.

Mrs. Osborn said she would just like to thank the Nolan's for taking the time to make the phone call when they didn't have to and try to resolve this situation when other folks might have just turned their head.

Mrs. Nolan said we appreciate you working with us. Thank you.

Mr. Vincent asked if there is anything else from Council.

Mr. Roberts made a motion to pay this claim in the amount of One Thousand One Hundred Sixty-six Dollars and Ninety-Eight Cents (\$1,166.98). Mr. Baker seconded the motion.

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

We are now at Ordinance 17-61 as amended with the new dollar amount.

Mr. Baker moved for third reading and passage, seconded by Mrs. Osborn.

Roll call vote for passage.

9 Ayes

0 Nays

0 Absent

Motion carries. Ordinance is passed.

TRAFFIC ORDERS

None

MISCELLANEOUS AND UNFINISHED BUSINESS

Mayor Tilton announced that today we were out looking for a new bucket truck and were out by Kidzville. I was truly amazed by the amount of kids and parents that were out there today enjoying this new Kidzville. The water features are just very well used. So again I would like to thank the community and the City for all they did to make this happen.

PRIVATE PETITIONS AND COMMUNICATIONS

Mr. Vincent: I have a non-agenda item filed by Mr. Eric Jones speaking on "more in response". With that Mr. Jones I could deny you from speaking tonight, because what you put here does not give us any understanding as far as what you are talking about and which does not give us time to prepare. I just wanted to let you know so please in the future if you would provide more information here and I will go ahead and allow you to speak here this evening.

Non-agenda item petitions filed

Mr. Eric Jones, 221 Luck Avenue, Zanesville, Ohio 43701 speaking on: "More in response (sic)."

Mr. Eric Jones: I appreciate that. First off over the course of time I forgot how to spell as I got used to spell check and by that, one time I put there we should have an ability to do our petition or send it in by e-mail. That way I would have access to spell check to get me out of some problems here. At least that is on the record now.

The last time I spoke I had put down on that one in response to it and I am just going to continue that. I didn't know if you would go back and check on it where I said Mr. Vincent is a tyrant and now that I have had a chance to read the polls opinion which basically is based on time, manner, and place and my attorney basically was doing an argument of it was an unlawful meeting. That was never my argument. My argument was about Roberts Rules of Order versus the Ohio Revised Code, but that being said that is all I had to work with is Mr. Vincent being a tyrant using Roberts Rules of Order. That became a lost cause, because the first rule was eliminated on the trial level. So I didn't have to worry about that. The part about Mrs. Norman that I spoke on return to basically a comment about civil rights and a few other things. Again the appeals opinion my reneger remark made it all the way up to that. As I said then the 'N' word just has so much power. It works its way up. I did not quite grasp that at the time, but I don't have a problem with the statement because at some time you guys are going to need to read the history of tyranny and that again is the Federalist Papers and that will work its way up, eventually. We are in the process of me harping Mr. Vincent as a tyrant, but we have a tyrant at the White House. If Trump Care goes through Zanesville is going to get hit hard because I remember in the Mayor's statement over 60% of Zanesville is below the poverty level and a lot of others are on Medicaid. It will hit the hospital, because they are a regional hospital and they get money from that too. So at the end of the talk, my time is running out, I am just hoping that maybe some of you might call your Senator and voice your complaints. It is going to hurt Zanesville big time. Thank you very much.

Mr. Vincent: Thank you, Mr. Jones. Just to clarify, the spelling was not the issue. It is a matter of listing what you are going to be speaking about, so Council is aware in advance in case they want to reach out to you or need to look into anything, as far as, to prepare. The same with the Ordinances then too is why we have a deadline on them also, so Council has a chance to do additional work and prepare for that and I appreciate you speaking on something different tonight later in your comments. You have been speaking on the same matters, for I think you said three and a half years and not made any progress on them, so maybe with this new healthcare maybe you can make a difference there.

Mr. Dave Rogers, 1104 Benjamin Ave., Zanesville, OH 43701 speaking on: "To conclude, From 6/12/17 Removal of city employees To Include Tony Coury. UPMOST Scrutiny Is In Order for government employees In There Duty (sic)."

Mr. Dave Rogers: How can a city have someone hold a position of Chief of Police that couldn't follow his contract as Captain especially when it comes to taking complaints? Ordinance 14-2 Article 16 covers that. I have copies of both of those here. A tainted investigation and Use of Force report. I also have the Use of Force report here. The individuals that handled the investigation knew the report they used was false; failure of the City Administration to handle the situation within the ZPD. That can also be drawn to those articles. The practice of writing false reports isn't limited to the Zanesville Police Department, but also is done at the Muskingum County Sheriff's Office. The Sheriff doesn't care. The Judges are wrong for permitting the practice of false police reports. There termination are held to a code of ethics will fiercely represent their client to the best of their ability. Does anyone truly believe that is being done in this community? A person can't even pay an attorney like it calls for and not get fiercely represented. It's a total fraud. So there lies the problem within this whole system of

being out of order from the police, representation, to judges in this community, police must be policed. This isn't happening, it is evident by cover up, and a period of loss exposed other city employees within the City's own paperwork. Thank you.

Mr. Vincent: Thank you, Mr. Rogers.

Mr. Roberts: Mr. Rogers, I am speaking personally. I don't believe the City Council is a platform for slander. If any individuals do have any issue with any law enforcement personnel they should seek judicial, which would be the courts action against the individual. The City legislature has absolutely no jurisdiction over matters of that except for their employment. So I would suggest that the persons would do that and please cease and desist from slandering people at once.

Mr. Rogers started to respond and Mr. Vincent interrupted stating Mr. Rogers your time is up. Your time is up. You can go ahead and have a seat. Thank you.

Mr. Vincent: With that, Mr. Rogers, I think this is the third time if not more so I am looking at that then as far as speaking on this subject again. You can shake things up a little bit or if you want to get information to Council I would encourage you to write a letter and send information like you have done in the past.

Mrs. Osborn moved to adjourn. Mr. Roberts seconded. All were in favor of adjournment. None were opposed. The motion carries and we stand adjourned. Thank you everyone and have a good evening.