
Ashland City Council

MINUTES FOR THE REGULAR SESSION OF COUNCIL November 21, 2006

Council President Glen Stewart called the meeting to order at 7:00 p.m.

ROLL CALL

Ward 1:	Robert L. Valentine	Present
Ward 2:	Robert M. Valentine	Present
Ward 3:	Ruth Detrow	Present
Ward 4:	Paul Wertz	Present
At-large:	Glen Stewart	Present

Note: Throughout the minutes, Robert L. Valentine and Robert M. Valentine are designated as to their ward representation, W1 and W2.

PLEDGE OF ALLEGIANCE

Boy Scout Troop 502 Senior Patrol Leaders led the assembly in the Pledge of Allegiance.

PRESENTATION OF MINUTES

November 7, 2006 *Regular session*

Moved by Valentine W1 and seconded by Valentine W2 to accept the minutes as received.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

COMMENTS OR QUESTIONS FROM THE AUDIENCE

(a) *Boy Scout Troop 502*

Stewart explained briefly to the Scouts the procedures of the agenda for the meeting. Council members introduced themselves and explained the part of Ashland that they represented. Other officials and City Directors also introduced themselves. Stewart told the group that questions were welcomed from them.

(b) *Special Award presentation:*

2006 George C. Askew Award, Kurtis Brzyszc

Susanne Pokorny introduced Charles Phelps, the Director of Leadership Programs at Cleveland State University. Phelps explained that Susanne Pokorny is the Coordinator for the Cohort 24, the section of the Ohio Certified Public Manager's Program in which Kurtis Brzyszc participated. Kurt was the former Assistant Engineer for the City of Ashland, for which his project was completed.

Phelps thanked the City of Ashland for sending two of their workers (Anna Tomasek and Kurt Brzyszc) to the program. This is a statewide program and all the state universities are involved, including Cleveland State University. The program has both an Urban University Program and a Rural University Program.

Phelps thanked Mayor Strine and City Council for the invitation to be here. The first award was presented to Mayor Strine in recognition of his support of the Ohio Certified Public Manager's Program participant Kurt Brzyszc.

Mayor Strine commented that it was very easy to support this program; it had a lot of advantages to the Ashland Community. Both Anna and Kurt chose projects very important to the community, and the Mayor thanked Mr. Phelps.

Phelps explained that Kurt's advisor was Tom O'Leary, the Director of ODOT District 3 located here in Ashland. Phelps also presented O'Leary an award in recognition of his advisory support of the Ohio Certified Public Manager's Program and of Kurt Brzyszc's work.

Phelps went on to say that he is also the Chair of the National Consortium of the Certified Public Manager's Program, which involves 27 states along with the Virgin Islands and Washington DC. This award is not only from the State of Ohio but also from people who have graduated from the program nationwide.

As Phelps presented the award to Kurt, he also told the gathering that Kurt's award is called the George W. Askew Award and was presented at the National Conference held in Louisville, Kentucky. The award is for the Storm Water Management System that Kurt helped developed for the City of Ashland, and it received the National Number One Award here in the State of Ohio and also national recognition for the George W. Askew Award. A plaque and picture of Kurt will be placed on the award wall at Cleveland State University, and one will also be sent to the City and to Council President.

Kurt thanked the City and all who worked on the project with him for their support and help, and he also thanked Cleveland State University for facilitating the program.

Council thanked Kurt and wished him well in his work with ODOT District 4.

LEGISLATION

Ord. 87-06

Item (a) AN ORDINANCE AMENDING SECTIONS 155.01(b), (c) AND (d) OF THE CODIFIED ORDINANCES OF THE CITY OF ASHLAND, OHIO, PROVIDING FOR THE SALARIES OF CERTAIN ELECTED OFFICIALS OF THE CITY OF ASHLAND; AND REPEALING EXISTING SECTIONS 155.01(b), (c) AND (d) OF SAID CODIFIED ORDINANCES.

Moved by Wertz and seconded by Detrow to invoke Section 113.01 of the Codified Ordinances as the distribution of this Ordinance has satisfied the requirements of said Section and that a further reading be dispensed with at this time.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Comments:

Mayor Strine explained that this ordinance sets the salaries for elected officials (Law and Finance Directors, Council Ward 1 and At-Large) for the next terms. This must be done in even numbered years.

Stewart added that these salaries will come into effect after the current terms of these elected officials expire, and the newly or reelected persons come into office on January 2008. That election will be next November, but Council is required to make any salary adjustments prior to the year in which election falls. He added that Council has been fairly restrained in salary additions to the various positions, and for the Council positions impacted by this, it will be the beginning of the ninth year of no increase in salaries for these two wards. Council froze their own salaries seven years ago, so this will be a change and an increase in those salaries.

Valentine W1 further explained that it is important to know that the salaries of people in office cannot be legally changed while they are in office. That has to be understood; that's the law.

Moved by Valentine W2 and seconded by Detrow that the Ordinance be passed on the first reading.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Moved by Wertz and seconded by Valentine W1 that the rules requiring the reading on three separate days be suspended and that the Ordinance be passed on the second and third readings.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Moved by Detrow and seconded by Wertz that the Ordinance be passed.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Motion carried.

Ord. 88-06

Item (b) AN ORDINANCE AMENDING ORDINANCE 11-2006 AND ORDINANCE 40-2006 BY CREATING ADDITIONAL APPROPRIATIONS FOR THE YEAR 2006; AND DECLARING AN EMERGENCY MEASURE NECESSARY TO MEET THE FINANCIAL NEEDS OF THE CITY OF ASHLAND, OHIO.

Moved by Wertz and seconded by Detrow to invoke Section 113.01 of the Codified Ordinances as the distribution of this Ordinance has satisfied the requirements of said Section and that a further reading be dispensed with at this time.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Comments:

Finance Director Anna Tomasek explained that this ordinance is to allow the appropriation of \$759,241.00 from several different funds to the Health Insurance Fund, as well as \$66,000 coming out of Account 405 for three police cruisers.

Mayor Strine further explained that this is for the big hits the City took in health insurance last year, which created a deficit. This is not a common practice.

Stewart stated that the only addition beyond the health insurance adjustments is the moving of funds for police cruisers, which is \$66,000.00. Tomasek gave the final total as \$825,241.00.

As to the health insurance adjustment, Detrow noted that because of this financial turn out, the City went to a different type of insurance. The City does not want this happening every year. Mayor Strine added that for approximately 15 years the City was self-insured; it was good insurance at a very reasonable cost for those years. But it only takes one year to go bad. The City has determined with what is happening in the health care industry that the City needs to limit its losses.

Moved by Wertz and seconded by Detrow that the Ordinance be passed on the first reading.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Moved by Wertz and seconded by Valentine W1 that the rules requiring the reading on three separate days be suspended and that the Ordinance be passed on the second and third readings.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Moved by Detrow and seconded by Valentine W1 that the Ordinance be passed.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Motion carried.

Ord. 89-06

Item (c) AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A CONTRACT FOR THE PURCHASE OF EQUIPMENT FOR THE POLICE DIVISION OF THE CITY OF ASHLAND, OHIO, OBVIATING FORMAL ADVERTISING AND BIDDING; AND DECLARING AN EMERGENCY.

Moved by Wertz and seconded by Valentine W2 to invoke Section 113.01 of the Codified Ordinances as the distribution of this Ordinance has satisfied the requirements of said Section and that a further reading be dispensed with at this time.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Comments:

Mayor Strine explained that this is an effort to catch up due to the fact that for the last couple of years, the City has not been able to purchase cruisers that were needed.

Police Chief Bill Miracle told Council that currently on order with expectation of delivery are three cruisers for which money has been appropriated in this year's budget. Hopefully they will be delivered sometime in December.

This ordinance is for three additional cruisers. The current fleet is aging, with 11 marked cruisers having a range of mileage from 73,000 and 146,000, the average being 105,000 on each cruiser. They are rapidly reaching the end of their useful life; some already have reached the end.

Miracle further explained they have been able to purchase three cruisers already built on which the specs can be changed to meet Ashland's needs. Otherwise it would be late fall or next year before they could receive others, due to the long lead times. This is to the department's benefit to purchase these from capital improvement fund at this time, and then budget next year again for additional cruisers for the end of next year. This will catch the department up on their replacement schedule as well as getting them some equipment that doesn't cost over \$20,000 a year to maintain.

Often older cruisers are used for the unmarked fleet, but due to the condition these are in, they will probably be auctioned off instead.

Detrow asked about the number, and Miracle responded there will be three in March or April, with budgeting next year for three more. Law Director Rick Wolfe added that Council has already acted on purchasing three, and this is three more for late next year or early 2008.

Stewart asked if these vehicles are dual fuel, E85 or regular gasoline, and Miracle said he believes they are E85 at this point but they also have the ability to use natural gas at some point. At this point there is no way of fueling with natural gas, but he thinks they are E85 capable at this time. They are all 2007 vehicles.

Stewart asked Miracle to confirm that for him when he can, and Miracle responded he would attempt it.

Stewart explained that the E85 is a fuel that many passenger cars have the ability to use in the next several years; it is a mixture of 85% corn based alcohol and gasoline. It is a move that is going on in this country to help preserve the oil-based gasoline and help remove dependence on imported oil.

Moved by Valentine W2 and seconded by Valentine W1 that the Ordinance be passed on the first reading.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Moved by Wertz and seconded by Detrow that the rules requiring the reading on three separate days be suspended and that the Ordinance be passed on the second and third readings.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Moved by Wertz and seconded by Valentine W1 that the Ordinance be passed.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Motion carried.

Ord. 90-06

Item (d) AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR, DIRECTOR OF PUBLIC SERVICE, TO ENTER INTO A MODIFICATION OF THE MORGAN AVENUE SANITARY RELIEF SEWER PROJECT – SIMONSON CONSTRUCTION SERVICES, INC. CONTRACT AUTHORIZED BY ORDINANCE NO. 63-06; AND DECLARING AN EMERGENCY.

Moved by Wertz and seconded by Valentine W2 to invoke Section 113.01 of the Codified Ordinances as the distribution of this Ordinance has satisfied the requirements of said Section and that a further reading be dispensed with at this time.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Comments:

City Engineer Jim Cooper told Council that this is the first and final change order for this project done by Simonson Construction. Basically the bulk of the change has to do with the repair of asphalt on Chestnut Street. Some soils were poor and needed to be removed and other soil put in, resulting in asphalt repair. Some other deducts makes the final change order \$2,201.00. The project is completed.

Moved by Valentine W1 and seconded by Valentine W2 that the Ordinance be passed on the first reading.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Moved by Wertz and seconded by Stewart that the rules requiring the reading on three separate days be suspended and that the Ordinance be passed on the second and third readings.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Moved by Detrow and seconded by Valentine W1 that the Ordinance be passed.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Motion carried.

WARD REPORTS

Ward 2: Bob Valentine

(a) *Sign and fence problems:*

Valentine W2 stated he had a sign problem that Street Department Jerry Mack corrected; he had a call from a woman about a fence problem, and Cooper handled that one. He emphasized that he appreciated the help and thanked them.

OLD BUSINESS: None

NEW BUSINESS

(a) *Requests for establishment of zoning:*

- 1) U.S. Rt. 250 East, North side of the road: Petitioner; Amberwood Center, Ltd. (Martin Myers). Recommended zoning: "M-1" Light Industrial District
*Public hearing set for Friday, December 29, 2006, 12:10 p.m.

Stewart announced this hearing, stating the all the hearings will be held in the Mayor's Conference Room. There will be a special session that day to handle all the financial changes and adjustments for the year's end, and the hearings will fit into that meeting.

- 2) U.S. Rt. 250 East, South side of the road, front area of development: Petitioner, Loral Investments, LLC. Recommended zoning: "M-1" Light Industrial District
*Public hearing set for Friday, December 29, 2006, 12:10 p.m.

Stewart stated the information about this hearing also, noting it will be held at the same special session.

- 3) U.S. Rt. 250 East, South side of the road, rear area of development: Petitioner, Loral Investments, LLC. Recommended zoning: "R-S" Residential District
*Public hearing set for Friday, December 29, 2006, 12:10 p.m.

Stewart announced this hearing that will follow the others at the special session.

He stated he'd like to comment on this hearing; he has talked to VanTilburg with relation to this. His immediate comment refers to the R-S zoning with the extensive deed restrictions. These deed restrictions are extensive, and they actually fall into areas of R-L zoning for many of the deed restriction requirements. His question is whether R-S is the appropriate zoning here. If it is laid out and all agree that the restrictions that will be part of the deeds are necessary and the way to go here, he has a feeling that the City may need an additional residential zoning code so that these deed restrictions fall within the zoning. If they become part of zoning, they become part of the City's responsibility to enforce them, rather than to depend on an association, if it's formed, to handle deed restrictions. He emphasized that this is his own question, and he feels if this Council chose to, it could generate another level of zoning in a relatively short period of time.

Stewart emphasized that it is his understanding the M-1 is needed as soon as possible, right now. He also found through talking with VanTilburg that March would be the latest to consider zoning for the R-S rear portion, that portion being discussed now.

Stewart went on to emphasize that he wants this community to develop and expand, and housing here is needed as provided. His concern is not with how it is laid out or with anything the developer is doing. He believes at this time the developer has no choice if he chooses to lay it out as he has. But he came to Planning Commission with these requirements and, as a matter of fact, he did revamp them to satisfy the Planning Commission. Stewart's only thoughts are that it is getting away from the intent of zoning when this quantity of deed restrictions are put on as they have been with this request.

Valentine W1 asked that they are using R-S zoning as compared to what, and Stewart responded that there isn't a zoning classification that would satisfy the requirements: the 25' set back, the 6,000 square feet, the restriction of only two stories. R-S is very wide-open zoning, so in order to keep it from being this "wide open", they have the deed restrictions written in, and the City does not enforce deed restrictions.

Valentine W1's next question was if something could be done by March, and Stewart stated he thinks maybe it could be done. If Council chose to, it could develop another level of zoning that might fall between the RL-3 and the R-S.

Mayor Strine asked if Council intended to go to the Planning Commission and ask them to work on this and make a recommendation, a question that got lost in the conversation.

Law Director Wolfe noted, saying with all due respect, he would suggest that that kind of a zoning change is something that needs to be thoroughly thought out, with Council availing itself with the input of the Engineering Division, the Building And Zoning office, the Planning Commission. To try to craft a zoning classification for a pending application may not be entirely appropriate.

If a type of zoning classification was found that was different from anything the City has now, the area in question could be zoned to that so it conforms to that zoning classification. The issue of deed restrictions, and he noted he understands Stewart's concerns, but it is something that has been used for many years. It is not just an association that has a right to bring an action, but it could be any property owner who is affected. Wolfe thinks it is the City's job to find the zoning classification that best fits the circumstances, and then if there are adjustments that need to be made because of the area or topography or whatever it may be, then deed restrictions would be one way to address that.

Wolfe went on to say he thinks that the process of creating a new zoning district and type of zoning category is something that would take a minimum of three months, probably five to six months to go through the process of review and public hearings and so forth. That would not be fair to the present applicant.

Wolfe suggested that Council probably ought to think in terms of looking at the zoning classifications existing now, and find that which best fits the circumstances, make whatever adjustments that are appropriate, and then if they come up with a different zoning classification in the future that encompasses one of these areas, then that zoning could always be changed. But he thinks, best case scenario, would be three months; however that could be problematic.

Valentine W1 asked about setting a precedent, and Wolfe said he didn't see that at all. Especially with property and zoning, there are no two circumstances alike, so the decision in one case would not be a precedent for the other, because every situation will be different based on its location, if nothing else. Each issue would be weighed on its own facts and circumstances.

Detrow suggested in the interest of not being a roadblock to these folks and to help them with their schedule, to accept this zoning with these deed restrictions, and then look at the City's zoning. There is nothing that allows for cluster housing or the smaller front yards or smaller yards in general, and while she personally likes big yards, she knows a lot of people would like a smaller lot. If Council goes along with what is planned now for this development, but then Council gets busy trying to up the zoning regulations so they are better for the com-

munity, can Council initiate a change in the zoning? Her experience with zoning is that it has to be requested by the property owner.

Wolfe stated that Council could initiate changes as well; it is in the code that Council or Planning Commission can recommend changes. That is a good point however; zoning ordinances are not static. They change, the community changes, the needs change. The City's zoning classifications are a couple of decades old or more; circumstances change over the years, and so it is entirely appropriate to look at other classifications or maybe a break down of the classifications the City has. Wolfe just thinks that is a process that will take more than three to five months to do and to do thoroughly. It is entirely appropriate to look at that, because there have been changes; there are changes in how communities grow and develop. It would be appropriate to bring the City's zoning code up to the present times. It would be a good thing.

Detrow asked about allowing them to go ahead with their request? But then if Council decides it is not in the best interest of the City to have that exact zoning classification and then tries to force them into that, there's going to be a problem.

Wolfe said they wouldn't be forced to change; his impression was to create a zoning classification that fit what was being done with the deed restrictions. If it conformed to that then the zoning would take precedence, as long as the zoning was not more restrictive. But the deed restrictions would still apply, and there is the question of who will have the responsibility to enforce them.

Wolfe stated that it is the City's responsibility to look at deed restrictions to know that they are reasonably appropriate; that is what is being done now. The City is still doing what it is supposed to do.

Detrow asked if she could make a motion to start on reviewing the City's zoning, but Wolfe responded it doesn't take a motion.

Stewart stated that he'd like to have a record of the action being requested. Mayor Strine asked for more clarification of any motion put forth, whether Council was going to do it or Planning Commission.

Stewart stated he'd like to have input, to make suggestions, to know what concerns there might be in understanding. There are eight pages of deed restrictions. He feels that if a developer has to add eight pages of covenants to a zoning classification to reduce what is allowed in a zoning code that falls closer to an R-L code, but because of set back and square footage, it falls outside of it, then something is being missed. He emphasized he feels that by working extremely hard with the Planning Commission, something could be crafted in the time frame. If not, something will still have to be done with it all. He feels very strongly about this.

After more discussion, a motion was suggested:

Moved by Detrow and seconded by Stewart that City Council requests, sees to it and suggests with emphasis that the City zoning specifically is investigated, reviewed and possibly updated by the City Planning Commission. The process of reviewing zoning is to be started, and the Engineering Department, Building and Zoning and the Planning Commission should be a significant part of that.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Stewart stated that there still would be three consecutive hearings beginning at 12:10 p.m. at the special session on December 29, 2006.

(b) *Work session held:*

Following adjournment of the regular session, Jon Gray presented an overview of the Quality Initiative Program of the City of Ashland.

MAYOR'S COMMENTS: None

EXECUTIVE SESSION

Stewart requested an executive session be held immediately to consider a concern of pending litigation.

Moved by Detrow and seconded by Stewart to move to executive session.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Council moved to executive session at 7:50 p.m. and returned at 7:58 p.m.

Moved by Valentine W1 and seconded by Valentine W2 to reconvene the regular session.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

ADJOURNMENT

Moved by Valentine W1 and seconded by Valentine W2 to adjourn to the work session.

Ayes: Stewart, Valentine W1, Valentine W2, Detrow, Wertz

Council adjourned the regular session at 8:00 p.m.

Submitted by
Elaine C. Hootman
Clerk of Council