

MINUTES REGULAR COUNCIL MEETING
REYNOLDSBURG CITY COUNCIL
SEPTEMBER 12, 2005

President of Council William L. Hills called the meeting to order at 7:30 p.m.

Members of Council present: Lane J. Beougher, Ron Stake, Preston Stearns, Brett Baxter, Eric Gilbert, Mel Clemens, Antoinette Newman.

Request for Executive Session to discuss an imminent litigation item that was not discussed in last Executive Session. Mr. Beougher moved to recess for Executive Session. Mr. Stearns seconded. Mr. Hills said those attending would be Clerk of Council and eleven Elected Officials. Mr. Hills also said it would be appropriate if the Directors and/or support staff or engineering firm, would be available if they needed to be called in. With the roll called, members voted: Mr. Beougher "Yea"; Mr. Stake "Yea"; Mr. Stearns "Yea"; Mr. Baxter "Yea"; Mr. Gilbert "Yea"; Mr. Clemens "Yea"; Mrs. Newman "Yea". Motion passed. Council recessed at 7:31 p.m.

Council reconvened at 7:57 p.m. With the roll called, members responding were: Mr. Beougher "Present"; Mr. Stake "Present"; Mr. Stearns "Present"; Mr. Baxter "Present"; Mr. Gilbert "Present"; Mr. Clemens "Present"; Mrs. Newman "Present".

The Invocation was given by Mr. Beougher. Mr. Hills led the Pledge of Allegiance.

Minutes of the regular Council meeting held July 25, 2005 were approved without objection. Minutes of the special Council meeting held September 6, 2005 were approved without objection.

The agenda was approved.

Community Comments and Requests -

Ms. Morris: My name is Joan Morris and I live at 1545 Graham Road. I've lived in Reynoldsburg and on Graham Road since 1960. I've seen the volume of traffic increased steadily over the years because of the lack of action, foresight, and planning by the powers that be who could have alleviated the problems we now have in Reynoldsburg. However, the measures undertaken by the Reynoldsburg City Officials to close off State Route 256 to no left turn traffic, was a poor one. The best option would have been a timed light. This can be accomplished no matter the protestations to the contrary, and was also recommended as an alternate solution by ODOT. To add semi's, tanker trucks, and the like to the mix on Graham Road is foolish and dangerous. The speed limit is not obeyed or enforced for the truckers. The City of Reynoldsburg and ODOT are leaving themselves open to huge liability problems. If there is an injury or death to school children or residents by allowing a residential street to be used as a truck route, I would strongly urge the 'no thru' truck sign be replaced and enforced. Thank you.

Mr. Hills: Thank you, Ms. Morris. The next speaker I have is Shirley Vingle. Mrs. Vingle, if you would go to the microphone and give us your name and address.

Mrs. Vingle: Shirley Vingle, and I live at 1735 Graham Road. Ladies and gentlemen, what I'd like to address to you is also about a problem on Graham Road. But this problem has been going

on for a long, long time. And because of the traffic and the trucks that have recently been added to our street, it has gotten worse. And that is the lack of a sidewalk in front of the Livingston House. We have children that walk to school from the apartments down at the end of Graham Road. And they have to walk on the street, or right off of the street. There's a ditch down, and they don't walk down there. I have pictures to show you the path that they take. And I also have pictures of the traffic on Graham Road. And I have it all listed on the back of the time, anywhere from 7:00 in the morning, to 6:00 at night. And a lot of times, it's grid locked. I would like to see you put sidewalks in front of the Livingston House, to put a walk bridge across the creek, and then enforce the sidewalk that would tie it in to the sidewalk that's there on 256. I'm so concerned that we're going to lose a child. And that's what's going to happen. And one of the pictures that I have here, it shows a school bus and a large truck. And you can see that they are both crowded to try to pass. So much so, that the cars behind them stay way up away so that they will not get involved in an accident. So I'll give you these pictures and you can pass them down. I have labeled them all on the back and so you can read. Thank you.

Mr. Hills: Speaker number 3 is David Merringer. And if you could just give your name and address for the record.

Mr. Merringer: Name's Dave Merringer, 1565 Graham Road. I'm here for the same issues that the other two speakers were here for. We want to place a formal request to have the 'no thru' truck signs replaced on Graham Road. It is support by city ordinances that basically states that no truck over 5 tons shall travel any street other than ones designated as a truck route or a State Route to preserve the safety and well being of the citizens. I'd like to have copies of this made if I could, and passed out to the Council members if that's possible. Now along with that packet, we also have a list of signatures from all the residents in the immediate area requesting the same issue. Along with that, we'd also like to have signs properly marking the truck route which is adjacent to us with State Route 256. There's not one sign letting the truck traffic know that that is the truck route other than at Jackson. So there should be truck route signs posted at Livingston, the five way intersection at Livingston, as well as Main Street. The third issue is transporting dangerous loads down Graham Road. In particular, tanker trucks. So we have not only semi trucks on the road, we now have fuel tank trucks for BP and other gas stations. Which once again, State Route 256 is the route for dangerous, or hazardous loads. Along with this, I'd also like to submit it for the Safety Committee to put in on the agenda to be reviewed as well, if that's possible. Like I say, once again, the main issue is, we'd like to have the 'no thru' truck signs re-posted on Graham Road. And then address them with the Safety Committee as well.

Mr. Clemens: We'll add that to the Safety Committee meetings, and we'll start discussing it.

Mr. Merringer: Okay. Thanks.

Mr. Hills: Okay with that Mrs. Frazier, I did note, the first three speakers are all on Graham Road. Make Graham Road as the Safety Committee for next week on the agenda. And Mayor, would you be ready to respond to some of the comments at that time?

Mayor McPherson: Yes.

Mr. Hills: Okay. Thank you. Next speaker slip is William D. Strait. And if you could come to

the mike Mr. Strait, and give us your name and address.

Mr. Strait: Yes. My name is William D. Strait. I live on Goldsmith Drive. I have lived at that address for 20 years. I enjoy the youth football in my back yard but it has become a terrible problem with the parking. We've had busses that have had to back up. It is a bus route going down Goldsmith. People are parking away from the curb legally, but then away from the curb, in a legal area away from the curb, they're parking in 'no parking' areas. There's a lot of trash and debris that's being left about and I'm tired of asking people, please that my yard is private property. I was confronted by a drunken man last year. I had to dial 911. I asked a few coaches dragging their coolers through the yard two weeks ago. They informed me I needed to move. That you know, this had been going on for a few years and football was not going anywhere. There are some very nice people that would kind of acknowledge me and say, would you mind if we go back through your yard to get to our car? No problem. But there are some very rude, obnoxious people in this group. The fellow I had to call 911 on was obviously drunk. Left the premises before the police got there. We've had bikes stolen. There's a new fad going on now where we're missing gasoline to put in the gas cans back. Maybe that is part of that group, maybe it isn't. But for me, I am self employed. On Saturday mornings, I need my mail. Last week, a week ago Saturday, I saw a slip on a windshield parked in front of my house, I said great, maybe youth football is doing something. It actually came from the mail man saying, do not block the box. After that person left, I had to pick that piece of trash up off of my ground. All I ask is that these people go another way to walk and not come through the yards. The parking situation for busses is a very dangerous situation. We actually have a retired gentleman from COTA that lives across the street from me that has finally slowed those busses down in that zone. Now they can't even get through with this parking. It is a dangerous situation on that street and I would appreciate these people not cutting through my yard when I'm trying to drink my coffee and enjoy my Saturday morning. And I'd like to be able to get my mail on Saturday's as well. Thank you for your time.

Mr. Hills: Thank you, Mr. Strait. Mayor, when it comes down to the parking on private streets, or when it comes to a public street, Goldsmith, is there anything you want to add on that? Or do you want to check on it and see?

Mayor McPherson: Well, we have met with the youth football group. And I think there's significant improvement over what it was during the early part of the year. We will make contact with them again. Remind them that they still have some people that are parking in front of mail boxes. They have in fact, called our police department. We have issued citations. And we will continue to issue citations when we're called for those people that are parking illegally. As far as walking through the gentleman's yard, we can ask youth football to remind their people not to do it. But again, it's one of those issues you try to make people have respect for other people's property. But there's always that group of people that don't have any respect for anybody's property. That's probably the people that are doing it. But we will again, meet with youth football. Talk to them. Ask them to put notices out to their people. I do know, I was down there last Saturday after their games and I thought the park was spotless. They've been using the cans. They've been policing the area. And we'll also remind them that they need to not throw trash in this gentleman's yard. So again, we'll get with youth football. They have been exceptionally cooperative with us. And we'll just remind them and ask them to kind of keep an

eye on the individuals that are causing the problems.

Mr. Hills: I appreciate that. But I will note that it is almost impossible, if not impossible, to either legislate or administrate manners. And unfortunately, that is one of the issues. If they're in violation of a code, I certainly think that it's most appropriate to site those people that are. But maybe we can get more cooperation from the group.

Mr. Strait: Excuse me. There was one other item. There is a ditch running down the middle of that field. There's a sign that says 'do not dump'. You have to go up and move the weeds to see that sign now. And people are dumping in there. I've asked the people cutting the grass, they said that there's trees and stuff in there. There's glass that people are dumping in that ditch. And as well, someone could take a small child in there and have their way and no one would ever know it. Even during a football there. That is a code violation, I'm sure. And I know it's a hand full. A few that are doing this Mayor. But you know, when they open a car door up and cups and trash fall out and they leave it lay there, I have to pick it up. They're not throwing it in my yard. I'm talking about just cleaning up the street, and the bus, and then that ditch. I mean, I know that there's good people in that group and it's probably a hand full. But you know, the way they park is unsafe on that street. I guess, you know, the people, I could live with some few obnoxious people. But if a child gets hurt on that street, run over by a bus, what have you, then we've all got something on our hearts there.

Mr. Hills: Mr. Strait, I did notice, the Mayor just wrote down about the ditch. So I'm sure he'll look at that one tomorrow.

Mr. Strait: They can take trees and everything out all the way to the fence line. I mean, they tried cutting up into my yard and I had to back them down a little bit. A few years ago, the grass would grow and we couldn't get it cut. Now they're wanting to cut and run the football team up in the yard and everything. I think I've got that under control. But that ditch is definitely an eye sore and a problem as well.

Mr. Hills: Thank you for bringing it to our attention. The last speaker slip I have is Tom Eller. Mr. Eller, if you could come forward and give us your name and address for the record.

Mr. Eller: My name is Tom Eller. I live at 6471 Lexleigh Road. And Mr. President, members of Council, as I'm sure you all know, our City Auditor has decided not to certify the referendum petition that has been circulated here earlier in Reynoldsburg. Possibly his decision is based on the City Attorney's opinion that he had issued. And we probably all have seen that as well. Those who would try to deny this right for the citizens to vote on a very important issue, are citing primarily case law that involves a Supreme Court, Ohio Supreme Court case. Actually, the Supreme Court heard this case twice. It was a Buckeye _____ versus a City of Cuyahoga Falls case. This case isn't even similar to our case. This case simply involves City Council making a decision on some plans that they had reviewed for some multi-housing family that was going in on land. Vacant land that was already zoned for multi-housing. So that issue is fairly straight forward and nothing like the issue that we have here. And even this issue, it was upheld in the lower courts in Summit County, and the Summit County appeals court upheld this decision and it went to the Supreme Court. And even the first time the Supreme Court heard this issue, this

issue of nothing but reviewing a set of plans, the first time the Supreme Court ruled on this, they ruled in favor of the lower courts and allowed that referendum to go through. And for some reason, they decided to hear the case again. And then the case was overturned. The lower courts were overturned by one vote at the second hearing. And this involves our constitutional right. Under the Ohio Constitution, Article II, Section 1(f) of the Constitution, gives the power of referendum to the people of municipalities. It's a constitutional right. Justice Douglas who wrote an opinion for the descent on the second case, he said, 'what is particularly disturbing is that the majority completely ignores the clear wording of Section 1(f) of Article II and turns the enabling provision into an affirmative limitation on the right of referendum. In Article II, I'm sure you've seen it, but it's entitled 'Power of Municipalities'. It doesn't say limits or limiting. It says the 'Power of Municipalities'. And Justice _____ Stratton, who also commented on this same case, the first time through says, she says, 'I passionately believe in the rights of the voter. It is the cornerstone of our system of justice. The people should have the ultimate right to decide their own fate. To be the arbiters of their communities course'. City Council has the tools and the authority to allow this referendum to go to the voters. Please, take control of this situation and show the Reynoldsburg voters that their most basic civil right, the right to vote, will not be denied. Thank you.

Mr. Hills: Any questions on that? (No response). Mr. Eller, I normally don't ask too many questions but, when you say City Council, if you'd read that last sentence, 'City Council has the authority to send this to the ballot'.

Mr. Eller: No, sir. I think...

Mr. Hills: What was your sentence that you said City Council?

Mr. Eller: I think in my opinion, City Council has the authority, and you have the tools to continue this process and...

Mr. Hills: Could you tell me what those are?

Mr. Eller: I cannot tell you right now. I have some Ohio Revised Code. I haven't reviewed it and I certainly don't want to speak incorrectly but, I do believe that the Auditor and the City Attorney for that matter, are required in their description under the Charter to respond to any ordinance, or to any resolution that comes out of this chamber. I don't know...

Mr. Hills: Mr. Underwood will, I think he's going to address in reports, and maybe he'll respond to that. But as President of City Council, I've sort of asked the questions and I'm not getting all the answers. And when I hear you come up and representing a group and you make the direct, well City Council can fix it, I'd just like to see where and how. And then we have to consider if we would. But I'm not hearing, I'm not sure where that is in law. Now I will agree with you that it certainly appears, and the Franklin County Board of Elections has somewhat stated, it isn't mine, I'm not touching it. And it's not mine because there was a letter that went down and said, I'm not going to send it back down for 'x' number of reasons. And so, now I'm not sure where, Council has acted, and I'm not, we all have jobs to do. And Council took their vote. Whether you like it or not, it was the vote taken of Council. It was a 4-3 vote. And then the system started to work.

Now the system has now stopped. Is there going to be other actions against the system? I'm not sure what Council can sit here and say, now we're going to do this. I'm always happy to listen to peoples suggestions. But I just don't want people misled to say, Council could fix this and they haven't. Because I'm not sure how it's fixed yet. And that's why, certainly, I'll be more than happy, if you find other information for more authority, I'd be more than happy to look at it and consider it.

Mr. Eller: Okay. Let me state clearly that, I represent no one. I represent myself. And I'm not speaking for any group or any other individuals. These are my feelings, and these are my thoughts that I've uttered tonight. And I do believe there is a section of the Ohio Revised Code that allows the City Council to go back and perhaps either re-hear, or re-vote, or reconsider an issue. I know in the Buckeye _____ versus Cuyahoga Falls, I mean if the Supreme Court of the State of Ohio can review the exact same case with all the documents the same, and if they can hear that case twice, I'm sure a City Council can go back and re-visit areas when it's appropriate under Ohio law. But I can't give you that law because I haven't read it myself and I don't know what it _____.

Mr. Hills: And I appreciate that. And I will say that all of us maybe need to look at some different things. But I know that our reconsiderations, I don't believe our Charter is going to address that where we can't do that. But Mr. Underwood I think, plans tonight to give us a report on where it is and maybe he'll answer your questions and maybe he won't. But I would think that, well I am an attorney, and I'm not going to sit here and speculate. But I do appreciate your comments and I will want more information before I comment one way or another.

Mr. Eller: Yes, sir. And the issue is, this is a very basic fundamental right. And it really shouldn't boil down to an argument of what the definition of a particular word is. And we have those who are opposing this movement. All we're asking is that the people of Reynoldsburg be allowed to help steer the course of a very significant issue here in this city. And it really shouldn't be denied because attorney's get together and argue over what the definition of a particular word is, or was this legislation, or was this an administrative act? And that's where the issue is right now. And we need somebody to step forward and have the where with all to allow this to move forward and not worry about law suits. Not worry about unintentional consequences. And I'd just appreciate it if Council just takes a look at some options that might be there. Thank you.

Mr. Hills: I appreciate your comments. Thank you, Mr. Eller. Any other questions for Mr. Eller? I have no other speaker slips and I don't see anybody bringing any up.

Communication- - Clerk report from Clerk of Courts: total monies collected from courts held during July 2005, \$33,454. Monies also collected during that period pursuant to Ordinance Nos. 146-94 and 104-02- -\$2,005 for the Computerization Needs Fund and \$325 for the Enforcement and Education Fund.

Total monies collected from courts held during August, 2005, \$42,802. Monies also collected during that period pursuant to Ordinance Nos. 146-04 and 104-02- -\$2,830 for the Computerization Needs Fund and \$350 for the Enforcement and Education Fund.

Reports- -

Mr. Hills: With no other communications, we will move to reports. There's one item there, but I've added a couple. So let me briefly, we're going to have (a) as the City Attorney and (b) as Mel Clemens. But prior to that, Mr. Beougher, Mr. Gilbert, would you both go forward for a presentation?

Mr. Beougher: Thank you, President Hills. As most of you know, tonight is Mr. Gilbert's last night among us. And Mr. Gilbert and I go back a way. Before I was on Council, I approached Mr. Gilbert about a membership in a political organization town. I think that was right about the time you were appointed to Council. And so, we contacted each other then. And I had an issue in my neighborhood which you helped me with and brought forward to the other members of Council. So you've been a contact of mine for a lot longer than I've been on Council which has been 5 years. And I valued that contact, and that contact has probably inspired me to become more politically involved, for better or worse. But that's the truth. And Mr. Gilbert, you and I have both seen good days and bad days on Council, and we've both been at the short end of the stick if you will. Usually at different times. And one of the things that I've admired about you is, in the past election two years ago, when the dogs were out kicking you around, you didn't admit defeat. You came back strong and you came back swinging, and took them on, and beat them off and won your race. So, certainly have the tenacity of a politician. And I had a conversation with Mr. Gilbert last week, and I told him he was going to miss this. And he might not miss all the issues but, I said, I bet you within a year, you'll file for some office or another. So we'll see if that comes true. But anyway, we do have a resolution that all the members of Council have signed, and I will read it. It say, 'Whereas, Eric Gilbert was appointed to the position of Ward III Council on September 15, 1997 and was subsequently elected for two consecutive terms beginning January 1, 2000. And whereas, Mr. Gilbert has served the citizens of Reynoldsburg with distinction as a member of City Council in Council's Community Development, Safety, Service, and Finance Committee's, and Whereas, Mr. Gilbert has represented the city with a high degree of professionalism at all governmental activities, and Whereas, Mr. Gilbert has held the concerns of his constituents to be most important in his deliberations. Now therefore, be it resolved that the Council of the City of Reynoldsburg commends Eric Gilbert for his contributions to the city, extends gratitude for his participation in all Council activities, and wishes him well in his future endeavors. Adopted this 12th day of September, 2005". Mr. Gilbert.

Mr. Hills: Those people taking pictures, if you'd like to come down front to get a close up, please go ahead and do it because this will be a 20 minute speech

Mr. Gilbert: I'm reminded that, shaking Mr. Beougher's hand, I'm reminded of my old government teacher at Fremont Ross High School said, the first sign of a politician is the greasy palm, the crooked smile, and the shifty eye. Let me thank my colleagues. I'll be very brief, but I just want to thank my colleagues for the kind words in the resolution. It is, personally it's an exciting time for me with new opportunity. And I recall, I think it's 8 years ago this evening, when Mr. Hills, you were here, Council saw fit to appoint me to replace the late Bud Greenlee. And those were some pretty big shoes to fill. Aside from that honor, it's a significant date for me. It was the last time all of our family was able to be together because my father passed shortly thereafter. I moved to Reynoldsburg in 1994. From the time I moved in, the neighbors were

willing to help me move things into the house. My first night here, I was invited to a cookout. When I first had applied for Council, I believe it was Mr. Vingle's vacancy, I came up a little short. And Mary Hudson and Sarah Cannella grabbed me by the shirt sleeve and said, why don't you get involved? And within two weeks, I think I was on the Visitor's Bureau Board. And Brad McCloud said, don't sweat it Gilbert, anybody that wants to be on Council, eventually will be on Council. Whether it's because an issue runs somebody out or a new opportunity comes up. So after that, I served on the Charter Commission. Mr. Hills, you helped appoint me to that. And then when Mr. Greenlee passed, I replace him. And I would just like to, just a few names that I would like to thank this evening. Gloria Greenlee and Danny Herrmann. I don't know if they're here, but they were so gracious and kind to me in what was a very tough time to them. And of course, my family is here this evening. My sister and her two daughters, Kirstin and Jordan. My mother, Laura Lee. And my daughter can't be here tonight. She's battling New Lexington in a high school volley ball match. But she sent good luck. Mr. Beougher, you mentioned the election of two years ago. And in any election, success does not come on your own as a candidate. It comes from the help of a great many people that placed their trust, and their support, and their resources behind you along with a little shoe leather if you're running the right type of campaign. Because you've got to get out there and knock on the doors. Anyone that's run in Reynoldsburg knows it's very competitive. Because everyone's going to go out and knock on the doors. Some of those people that helped me with that were Ralph and Joyce Wolfe from Cobblegate/Windsor Forrest area. We had a question about a last minute mailer that had to get out and I was bound and determined it needed to go to the Reynoldsburg Post Office. And when Ralph told me four days before the election that he went up to the airport that afternoon and put it into the airport post office, I about had a coronary. Well, things got delivered the next day and he was right, I was wrong. Sandra Long and Elliott Geller, for all of their support in the Civic Association. Elliott, I know you're here this evening. Thank you. Sandra is in Canada enjoying her fishing. Irene Parker, Dee Trivet, Ed Lactansky, and Bonnie's normally here but, Carol and Bonnie Williams. The difficult thing I find with this job, if I could just say one more thing, is that you receive the support and efforts of so many people. But inevitably, if you're successful and you take the Chair here, and at any type of legislative office, sometimes you find that you're on a different side of an issue that the people that have supported you find themselves on the other side. And that is the great trap of making a decision as a legislature of what you think is best for the community. Because there's so many diverse interests. And we're not put up here because we're objective. We're put up here because we, in our literature, offer up what our opinions are on things. And that's been very difficult for me. I know, Bonnie and I find ourselves on opposite sides of an issue that is ongoing in this community, but I will say, I remember her going around and asking for support for me in 1999 and I would not be standing here today, and would not be sitting at Council without her efforts. The likes of Mayor McPherson, when I think of Reynoldsburg I will think of you because, to me you are Reynoldsburg. You have a deep commitment to the community. And I know it's been a tough year and a half for you, adjusting to a new way of life. And we've had our differences, but I have a deep respect for you and wish you the best. Mr. Underwood, one of the most decent men I know. Thank you for all your support over the years. Mr. Whitney. And being a little history buff, I remember reading a speech that Hubert Humphrey gave when he left the Senate where he said, 'no person is indispensable to the political process. No elected official'. But there are people that are indispensable. And one is sitting right over here to my left, Nancy Frazier and her staff Susie and Donna Glenn. You have been so wonderful to me with your help with the process of Council,

your friendships and always checking to see how Morgan did at her games. And I won't forget it. One final word, I'm very fortunate in a lot of ways. I was adopted as a young man. And I remember when my father passed away, looking through some of his personal effects, I found a check in there to Erie County Human Services for I believe, \$37.25. And I thought initially, well that's a heck of a bargain because that's where I'm from. Erie County, Sandusky. And I thought God, the cost that I've generated for him over the next 18 years must have been immense. But I've found wherever I've gone, people have been willing to take me under their wing just like mom and dad did. And they've done that here in Reynoldsburg. Some will tell you it's a headlock to talk some common sense into me. But let me just say before I go that, I grew up in Fremont, Ohio. Born in Sandusky. But when people ask me where I'm from I will always call Reynoldsburg home. Thank you, very much.

Mr. Hills: Before moving to the further reports, I just want to note, and Eric it's one of the duties I have, applications for those people who live in Ward III will be accepted. If you'll submit them to the Clerk of Council by next Monday night. So there is a one week period of time if someone has an interest, submit your letter of interest and whatever attached documents you would like to Mrs. Frazier by one week from tonight which would be the 19th.

Moving on to item a, City Attorney report, Mr. Underwood.

Mr. Underwood: There's been a lot of talk on the referendum and I asked Council if I could address both them and the people that would be here tonight to try to explain a few things as best I could. Many of you know bits and pieces. Some of you know the whole story. Some of you know parts of the story on the referendum. This began when the petitions were filed with the Auditor. The petition stayed on public display for 10 days. And then they went down to the Board of Elections. The Board of Elections check signatures and they found that there were enough valid signatures for the referendum. And then the petitions come back to the City Auditor. When they come back to the Auditor, under the law, the Auditor then has to inspect them and certify them back to the Board of Elections that they are of sufficiency and validity to go on the ballot. Now, the Auditor is good with money and he knows those things, but he looks to me to say, are they sufficient and valid to go on the ballot? And that's when I gave him opinion that said, these petitions are not referendable. And that's where the _____ cry comes in from the _____. All wanting to say, oh yes, but we should vote on this. The petitions are not referendable because Ohio law, it says that only legislative actions are referendable. The action that was taken was an administrative action. The passing and establishing the zoning ordinance that was established by Council, was legislative action. That zoning ordinance as it stood, was subject to referendum. That zoning ordinance carried within it, certain processes. And one of them was the process of issuing Special Exception Use Permits. And that process, the Special Exception Use Permits was an administrative action. Ohio law started with the constitution, down through all the Supreme Court decisions. Says, administrative actions are not referendable. And this is not the first time in the history of Reynoldsburg that we've had this occur. The last time was '94, '95, '96. And there wasn't the _____ that ran up. We did not certify those petitions to the Board of Elections. The petitions were not certified. The petitioners took it to court and the court upheld the fact that it was administrative action and not referendable. This time I gave the Auditor an opinion that said it was not referendable because it

was administrative action as opposed to a legislative action in issuing the Special Exception Use Permit. Now that, the most direct case on point was the Sherring case which Mr. Eller has not, has elected to ignore which was in the opinion. And that was a zoning case where they did a Special Exception Use Permit. That was almost identical to this. That is the major legal objection to this, was the administrative action. Now, the Auditor is an Elected Official. He has an oath of office. He has to certify this that it is referendable back to the Board of Elections. And he took my opinion, and he decided that he would follow his oath of office and not certify it. I'm elected. I have an oath of office and I have to call it the way I see it. If we did not call them the way we saw, and the way to do it, then we would not be following our oath of office, and not doing our job and our duty. The Auditor, if he had not followed that, and there had been a law suit, he could be into some personal liability if there was a law suit. And he could be into a million, two million, three million dollars. And that is not good. When we get into law suits, and if there is insurance coverage, they always do a letter of reservation and rights. And that letter of reservation and rights says, if we seek the coverage on the insurance, you could be on the hook for the city. And if you did not follow the law, you may not have any insurance coverage for you individually. The Auditor decided to follow the opinion and do that. Meanwhile, unbeknownst to us, the church attorney's filed a notice of protest with the Board of Elections. Now, if _____, just gone and certified it without following the opinion, the petitions would have gone down and they'd had had a hearing on the notice of protest and the opinion on the notice of protest that the attorney's for the church had filed and their brief was the same thing. It was it's administrative action, not referendable. So by all accounts, it probably would have ended right there and there probably would have been, I say probably, almost 100% assured, it would not have been on the ballot at that Board of Elections hearing. The, we did not know when the Board of Elections had scheduled a hearing, that they were not going to have the hearing. They didn't have the courtesy to call anybody. We thought they were still going to go ahead and have a hearing. But they didn't. They said, no, petitions didn't come back. So everybody went down thinking they were going to have a hearing, but they decided not to. But this was the same procedure we followed with dealing with referendums in the past. The proper procedure, if somebody still wants to try to get this on the ballot, the Auditor could ignore my opinion, certify it to the board, the board would have a notice of protest hearing, and I'm confident that it wouldn't get on the ballot. If it did, if it did have the notice of protest hearing, the church would probably file in court and keep it off the ballot. They could go to Federal Court under the Religious Institutional Act, and there would probably be a lot of money that would be passing hands and it wouldn't be coming our way. It would be coming in the direction of the church. In the way of attorney fees, damages, and maybe some personal liability. But remember when you're doing this, I didn't write the Ohio Constitution. I didn't write the Ohio Supreme Court opinions. I'm the messenger in this. I try to tell the city what the law is, and that's my job. And I did that. And I did that to the best of my ability. I've been in this city for a long time and I've got a good track record on these, and I tried to give them the best knowledge I have. And I've raised my family here and we're into our grand kids being here, and I plan to stay here. But the whole thing is that in the past when we've done this and followed this, and everybody has agreed, everybody's been happy. Now, a lot of people are unhappy because they disagree with it. So I'll let you find your own way of dealing with this but, I can just about guarantee you that this is right. You don't have to agree with it, but I'll tell you, it's right. So, are there any questions? Anything I can answer? Yes, ma'am.

Female: I was just wondering. Did you have any inkling at any time before the petitions went out

that this is what we had in mind of going out to get a petition? Did anybody tell you that we were planning on doing that? Or did you just find out when the petitions _____ the Auditor, this is what we did.

Mr. Underwood: I happened to be on vacation when the vote was taken. And I was told that....

Female: (Inaudible. Speaking off mike).

Mr. Underwood: I was told that you were planning on passing petitions. A reporter called me and it was in the paper. I said, I don't think it's referendable because it's administrative action. And that was published in the paper. Nobody on your committee called. Nobody asked me. In fact, I didn't know who your committee was until the petitions came in. But it was published in the paper, my opinion was, that I don't think it's referendable....

Female: But you said I don't think. Now you're saying, this is what will happen. You're giving us the story after the fact. (Inaudible).

Mr. Underwood: I'm tell you, nobody bothered to even ask.

Female: We had to come down here and appear before the (Tape Change). I know what you're trying to do. I understand what you're going to do. I just want to tell you what the law says. And this is my _____ and tell us exactly what you're telling us right now to drop the whole thing. (Inaudible).

Mr. Underwood: I don't think anybody would have even listened. Nobody even asked.

Female: But you didn't do it at all.

Mr. Underwood: I didn't know who to tell.

Female: But we were meeting right here.

Mr. Underwood: Who's we? I don't know it.

Female: Everybody that's here.

Mr. Underwood: I don't know it. So now it's my fault.

(Inaudible. Several speaking at one time).

Female: It's your job to be here. It's your job. And they had questions for you before you ____ .

Mr. Underwood: I never have vacation time?

Female: And it's your job. And you should have been here for that. And don't tell us that you didn't know because _____ we were all standing up here and you know who ____

.
Mr. Underwood: No. I don't know who you are. Yes, sir.

Male: Now that this is going to happen, what about the drug rehab program _____?

Mr. Underwood: I don't know anything about their drug rehab program.

Male: They were talking about having a drug rehab program.

Mr. Underwood: Has anybody talked to the church about it?

Male: The church stated that and what they were going to do there.

Mr. Underwood: A lot of churches have missions. A lot of local missions. And I have no idea about the extent.

Male: Drug rehab program (Inaudible. Speaking off mike).

Mr. Underwood: There's a lot of, a lot of churches have a lot of programs. And I don't know what program they're going to have or what it is. There's AA meetings that goes on in churches.

Male: AA meetings fine. But when you're talking about drug rehab, (inaudible).

Female: (Inaudible. Speaking off mike).

Mr. Underwood: Thank you.

Mr. Hills: Thank you, Mr. Underwood. The next report is from Mr. Clemens. Mel.

Mr. Clemens: Yes. This is not you know, a report I like to give. It's not a subject that I'm happy to talk about. It's not a subject that pertains to City Council or to the referendum, or Mr. Underwood's opinion. It pertains to actions by Mr. Underwood. And I think you saw some of them this evening. You've got his correct opinion which I think he was honest about. But then you've got his usual around the circle deal. He circles himself. And you found out he doesn't want to talk about issues that you want to talk about. And this is something that we work with all the time. I've worked with Bill for over 20 years. Almost 20 years. And consider him a friend and a good attorney. He's handled a lot of good issues and he's well respected. But we all have our good days and we have our bad days. The day that Bill called his news conference here at City Hall was a sad day for the City of Reynoldsburg. The statements, and some of the statements he made in front of our local newspapers, in front of The Dispatch that goes all over Franklin County, suburbs, and all over the State of Ohio, these are the statements I want to talk about. One of them was pertaining to the \$39,000 that the school gets. This is a sluff off. His one opinion in the paper was and it was wrote, this \$39,000 is absolutely, tax value of absolutely hardly nothing for the schools. His exact quote, his exact quote, and he come out good in the newspaper, his exact quote that day was "The school has millions of dollars in bond money. This is just a drop in

the bucket". I bet our, I bet some of our people that vote on our tax issues, I bet they're happy to hear that really. That this \$39,000 is a drop in the bucket. This statement's inconceivable, our own City Attorney would make. The biggest issue, the biggest issue was the other article where he brought in that this was racial. This is motivated and racial in one newspaper. The other newspaper, some of the _____ people are racial. Now what is some? Is some two people? A hundred people? Or is it a thousand people? Maybe it's the 2100 people that signed the petition. I don't know. Bill seemed to know. He's the one that seems to make it a racial, and that's a statement we shouldn't have heard. I want the people to know that I'm not a racist. These people up here aren't racist. My wife sitting out there, she's not a racist and she passed the petition. My son and daughter-in-law signed this petition. They're not racist. The people involved in the committee, they're not racist. And neither are the 2100 people that signed it. They're good people. To be referred to as a racist, as a racial issue, this is trying to get the monkey off your back after he's already there. Let's skirt around the corner. That's what it's about. There's you know, there's words for this type of statement that you make. I don't know whether, who you could, whether, it comes in a big circle. It's like slander, ridiculous, or just plain stupid. But any how, this is what my problem is with the situation. Not the opinion on the referendum. It's how it was handled. It's how we were perceived in the newspaper. It's how the black cloud come over Reynoldsburg. Because this neighborhood has been called a racist. Or emotional racial by their own City Attorney. How we correct that, I don't know. My opinion would be, and I know Mr. Underwood and I respect him, he likes to make statements to the newspaper. I think his next statement ought to be an apology to all of you, to the citizens of Reynoldsburg for pulling this cloud over us. If he don't want to make it, I'll make it and I'll apologize to all of you. And I feel sorry I have to do this but I'll do that. And I want to leave it at that. Thank you, Bill.

Mr. Hills: Yes sir, Mr. Clemens. Thank you for your comments.

Consent Agenda items:

Clerk read each of the following items by title. Disposition results listed at end of each title.

for first reading: ORDINANCE ACCEPTING SIX UNRECORDED DEEDS OF EASEMENT AND ONE LIMITED WARRANTY DEED (storm sewer, water main, sanitary sewer, and Limited Warranty Deed) (JP Development Company, a Missouri Corporation) (Drury Inns, Inc., a Missouri Corporation) (Lillian I. Dolder - Albert C. Dolder, Sr.)- -item referred to Service Committee.

for first reading: ORDINANCE GRANTING EASEMENT TO COLUMBIA GAS OF OHIO, INC. FOR INSTALLATION OF PIPELINES- -item referred to Service Committee.

for second reading: ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF REYNOLDSBURG ADOPTED BY ORDINANCE NO. 131-95 ON NOVEMBER 27, 1995 AND AS SUBSEQUENTLY AMENDED - 9366 AND 9370 Taylor Road; from township zoning classification of Ag to city classification of AR-2c; (20.8 ac.), applicant, M.H. Murphy

Development Company- - item referred to Service Committee.

for second reading: ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF REYNOLDSBURG ADOPTED BY ORDINANCE NO. 131-95 ON NOVEMBER 27, 1995 AND AS SUBSEQUENTLY AMENDED - 9366 AND 9370 Taylor Road; from township zoning classification of Ag to city classification of CC; (8.4 ac.), applicant, M.H. Murphy Development Company- - item referred to Service Committee.

Mr. Beougher moved approval of the actions on the consent agenda. Mr. Stake seconded. With the roll called, members voted: Mr. Beougher "Yea"; Mr. Stake "Yea"; Mr. Stearns "Yea"; Mr. Baxter "Yea"; Mr. Gilbert "Yea"; Mr. Clemens "Yea"; Mrs. Newman "Yea". Motion passed; disposition listed above.

Regular Agenda items:

Motion

Clerk read motion: That the Safety/Service Director be and is hereby authorized and directed to advertise for the collection, transportation and disposal of garbage, refuse, recycling and yard waste of residential householders of the City of Reynoldsburg. Contract proposal will be submitted to Reynoldsburg City Council prior to bidding. Mr. Gilbert moved adoption. Mr. Beougher seconded. All voted "Aye". Motion passed.

ORDINANCE TO ACCEPT AN APPLICATION FOR ANNEXATION OF 123+/- ACRES IN ETNA TOWNSHIP, COUNTY OF LICKING, STATE OF OHIO, TO THE CITY OF REYNOLDSBURG, OHIO (Summit Place L.P.; Maplewood Farms L.P.) AND DECLARING AN EMERGENCY- - Clerk read ordinance by title for the one required reading. Mr. Gilbert moved adoption. Mrs. Newman seconded. With the roll called, members voted: Mr. Beougher "Yea"; Mr. Stake "Yea"; Mr. Stearns "Yea"; Mr. Baxter "Yea"; Mr. Gilbert "Yea"; Mr. Clemens "Yea"; Mrs. Newman "Yea". Motion passed; Ordinance No. 69-05 adopted.

RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR AND DECLARING AN EMERGENCY- - Clerk read resolution by title for the one required reading. Mr. Stake moved adoption. Mr. Clemens seconded. With the roll called, members voted: Mr. Beougher "Yea"; Mr. Stake "Yea"; Mr. Stearns "Yea"; Mr. Baxter "Yea"; Mr. Gilbert "Yea"; Mr. Clemens "Yea"; Mrs. Newman "Yea". Motion passed; Resolution No. 70-05 adopted.

ORDINANCE MAKING SUPPLEMENTAL APPROPRIATION FOR REPLACEMENT OF TREES AT THE LIVINGSTON HOUSE PROPERTY- - Clerk read ordinance by title for the first reading. Item referred to Community Development Committee.

ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS FOR (1) REPLACEMENT OF ROOF ON THE LIVINGSTON HOUSE; AND ALSO FOR (2) PAINTING SUPPLIES- -

-Clerk read ordinance by title for the first reading. Item referred to Community Development Committee.

ORDINANCE TO SUPPORT A COOPERATIVE DATE BY WHICH ALL CENTRAL OHIO MUNICIPALITIES WILL CELEBRATE HALLOWEEN TRICK-OR-TREATING- -Clerk read ordinance by title for the first reading. Item referred to Community Development Committee.

Meeting adjourned at 9:00 p.m.

William L. Hills, President of Council

Nancy C. Frazier, Clerk of Council

(Transcribed/Ass't. Clk. of Council S. Smith)