

MINUTES REGULAR COUNCIL MEETING
REYNOLDSBURG CITY COUNCIL
July 14, 2008

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

Members of Council present: Donna Shirey, Ron Stake, Fred Deskins, Jr., Leslie Kelly, Doug Joseph, Mel Clemens. Councilwoman Antoinette Newman was absent.

The Invocation was given by Mr. Hills, who also led the Pledge of Allegiance.

Minutes of the regular Council meeting held June 23, 2008 were approved without objection.

Mr. Hills said there would be no Executive Session, at the request of the Mayor. The amended agenda was approved without objection.

Community Comments and Requests:

Mr. Hills said there were two speaker slips, and asked if the speakers would mind delaying speaking until the Reports Section. Speakers agreed to wait.

Clerk read report from Clerk of Court: total monies collected from Courts held during June, 2008 - \$50,487. Monies also collected during that same period pursuant to Ordinances #146-94 and 104-02 - - \$2,912 for the Computerization Needs Fund; and \$175 for the Enforcement and Education Fund.

Reports:

Mayor McCloud: President Hills and members of Council - the first report involves an issue that was brought to our attention a few weeks ago regarding O'Toole's and the noise. And the residents who live in Coronado Woods brought this to our attention. I have been to the premises at O'Toole's and I have met with the owner. I also have a list of Police calls to that address going back to January 1, 2005. A couple of things struck me. I think one of the things that we surmised, and this Police Report confirmed, was that when the smoking ban went into effect on December 7, 2006, enforcement began May 3, 2007 - there is a direct correlation to the number of calls to that establishment for noise. In 2005 there were a total of eleven calls for Disturbance of the Peace, noise and in 2006 there were twelve. After the smoking ban went into effect that number increased to twenty-eight, so I met with the owner, local person, went to High School here, lived here, went to OSU, and the first thing she said was 'we want to be good neighbors'. So she is looking at implementing a handful of noise-reducing measures. She expressed sincere concern to me that this was important to her. Some of these measures will consist, is due diligence with the patrons and just letting them know that this is an issue, that they want to be a good neighbor.

When I first visited them, one of the employees had actually begun making hand-made signs for the patio saying "Keep the noise down - it's a concern for our neighbors". I'm going to let Christine Grundey address specifically some of those measures, but I also want to address the perception that maybe nothing happens when the Police are called, and so far this year there have been thirty calls for service to that address, but there have also been citations issued in February, March and June. So the Police do respond - they do issue citations. Sometimes the basis for the call - this one says June 20 - by the time the Officer arrived - it was unfounded - so I walked up to the fence and could not hear anything - that was July 2, 2008. The Police do respond - they do

issue citations - we are working on it - we do acknowledge that this is a substantive problem that we want to address from the Administrative standpoint. I've spoken with Mrs. Murtaugh from the Coronado Woods Civic Association and expressed to her our commitment finding a passable and reasonable resolution to this and I guess at this point I would ask that Christine Grundey be able to come forward and be able to share with you some of the things that she's going to implement and then certainly I'll be available for questions.

Mr. Hills: Mayor, if I could, yes, she is one of the ladies that submitted a speaker form, but on the citations, are the citations issued on alcohol-related complaints in the parking lot or are these on noise citations?

Mr. McCloud: Noise. These did not include if there was a vacant, suspicious car that was maybe abandoned in the parking lot - that did not include these....

Mr. Hills: So the citations that you're referring to are those that relate to noise from the smoking area?

Mr. McCloud: That is correct, Mr. Hills.

Mr. Hills: Thank you, Mayor. Are there any other questions of the Mayor before we hear from Ms. Grundey. Yes, Mr. Clemens.

Mr. Clemens: On the citations, did it go to Court, or what was the situation there?

Mr. McCloud: I'm sure they did. I don't know the disposition of those Mr. Clemens. I can certainly find out and follow up with you. We just had a citation issued on this but....

Mr. Hills: Okay. Christine Grundey, if you could come to the mike and give us your address for the record and I guess you're going to tell us how all these are going to be resolved, right?

Ms. Grundey: First, I would just like to say "Thank You" President Hills and City Council for allowing me to speak and defend myself and my establishment, because that's very important to me; and I was unaware of the issue two weeks ago that would be brought before you. I was unfortunately in Disneyland with my kids so I wasn't around to defend myself. Thank you for the opportunity.

As Mayor McCloud stated, I did grow up in Reynoldsburg, all my life. Graduated from Reynoldsburg High School, went to school with Mr. Clemens' son, and went to Ohio State. My husband has owned O'Toole's - on October 1st it will be fifteen years. He's been a member of the Chamber of Commerce for the same period of time, so locally, the Community is very important to us. When we used to have the tent for St. Patrick's Day and stuff, we always donated monies taken in that day to the Reynoldsburg Jaycees, so on and so forth. Anyway, I would just like to publically apologize to Mr. Ahern and let him know that I am deeply sorry that he is as distraught as he is over the situation and that now that it has come to light, that it is being addressed and some of the things that we're doing, like we said, there's been notes posted inside the bar letting people know that we have the patio out back for smoking and drinking and that there are residents that live directly behind there. There are also two gates with push panic bars that are according to safety

regulations and those now have signs stated on them that they are for emergency exit only and to leave them shut at all times. We have the rear door - prior to the patio had an exterior handle - it had been pried and attempted break-ins a couple of times so when we replaced the door we did away with the exterior handle. It now just has a panic bar which you use an allen wrench to lock it to leave it open so patrons can go back and forth. What we are going to do, since the patio is enclosed and it is locked at night and the only way someone could gain entry is to climb over the six foot fence would be to go back with the handle so the door can remain shut at all times, because I know that he did complain of just music and noise coming from inside the bar and drifting out into the patio, so hopefully that will resolve some of the those issues. Also, we are waiting for information from the Health Department regarding permanent awnings and the rules regulating that and then as soon as we get that information we obviously would have to come to the City to get a permit for that as well. Unfortunately, with that situation, I think in his defense is that right now the patio is only utilized during nice weather. It has no sort of overhang, no sort of awning, so therefore when it rains, it snows, any sort of inclement weather, no one is out there whatsoever using the property, but if there were to be an awning overtop then it would obviously be feasible for people to use it 365 days a year so I don't know if that will help muffle the sound, but then you also have the option of people being there day in and day out.

But then to address some of the things that we were accused of in print, if I may, in the local papers. I would just like to say that according to the Police reports that I have - the same as the Mayor's from January 1, 2005 until last week, we were accused in print of miscellaneous things - public intoxication, public urination, swearing - unfortunately it is a bar; there are adults imbibing in alcoholic beverages. Obviously public urination is not appropriate. I'm not saying it has not happened. I have not seen anybody do that, but like I said, I'm sure it can occur. It is an enclosed patio so they are allowed to have open containers - that's compliant with the liquor laws. So I'm sorry, that's unfortunate, but they are supposed to remain inside the fenced area and that's policed as well to make sure, because if not, that's in violation of my liquor license and I won't tolerate it.

The other thing was the drag racing and gunfire, and that was printed by Dedra Cordle in the Eastside Messenger, and I hope that she's here, and hopefully I get a retraction in the next paper, because according to public record with the Police Department that could have easily been pulled. There are no reports of that - that have ever occurred whatsoever and I don't take kindly to being accused of that. Those are pretty malicious accusations and I think if you cannot speak to me or take the time to go to the Police Department to have those pulled, I should not be accused of that in print. I would also like to say that I have pictures supporting some of the things I've said to you today, photos I've taken. I have pictures from the patio looking over to the condos just so you can see what is actually visible when the trees are in bloom on the ravine. Mr. Ahern also accused people of coming onto his property. There is - as you're familiar - Blacklick Creek runs directly behind our establishment and there is a direct fifteen-foot drop off. There is no embankment to climb down. It would be virtually impossible unless you're repelling to cross down that and go back up the other side which is taller on that side and to go onto his property directly. I took my car out back on the Service road and took pictures so you can see there's room for one car back there. The only time there are vehicles back there are when we're dropping off supplies for the bar, miscellaneous things like that. The drive-thru is also - we have a drive-thru in the strip mall, it dead-ends to the West of that - I'm sorry - with commercial dumpsters. Sometimes people turn the wrong way exiting the drive-thru and have to back up along the property to get out, but there is visibly no way for there to be any race car drag racing - two cars back behind there.

The other thing that I would like to say is that I was also accused of in print of doubling the size of the patio. That is not true. That was written by Sara Johnson and that's also public record. I would challenge anybody to pull the permit, bring it down, and gladly measure the dimensions of the patio, just to make sure that I'm in compliance with the law. The patio seats three round tables. It has fifteen total chairs. I have pictures for you of the bar. It's approximately 2,200 sq ft. The bar encompasses thirty-two stools; then on the other side we have two pool tables; two tables and a stage. They can't have - St. Patrick's Day, yes - one day a year - we have a lot of standing room. In closing, I would just like to say that, the final thing is that with the motorcycle racing and revving engines, I guess until 2 a.m., which is also in print, I would like to say that we, if you're familiar with Reynoldsburg at all, are not known as one of the local biker bars. I have nothing against people that ride motorcycles personally. I don't own one. They're actually very responsible drinkers. They are very charitable people. They do a lot of poker runs, bike runs in the summertime to raise money, and we started, just this year, having our "Bike Night" where we're raffling off a Harley at the end of Summer and any of the proceeds go to the Foundation for my son, who is stricken with a neurological disorder that has no known cause - no known cure. I've never met anyone in Columbus that has it. You have to go to Johns Hopkins in Baltimore, Maryland to see a doctor. And fortunately, all of the regulars come out in their cars, and I get about six bikes that night, so, just so you know, it is for a charitable reason. It's not to cause problems. It starts early. I have one outdoor speaker on the patio that they know now to monitor the sound and the volume and to keep it down later in the evening and at night. Four nights a week we have live entertainment and that is not piped into that speaker on the patio. It's only piped to the jukebox and that's all. Friday and Saturday night we have a Disc Jockey from 10 p.m. to close so there's no music out back coming from that speaker. Sunday nights we have an open stage from 9:30 p.m. to 1:00 a.m., and on Tuesdays now for the charity functions that we're doing, it's from 7:00 p.m. to 11:00 p.m., so there is no music available on the patio at that time. And I would be more than happy to take any comments or considerations to improve the situation. We obviously don't desire to go anywhere. We just want to be good neighbors and continue to pay our taxes to Reynoldsburg as we have the last fifteen years and would like to have it fifteen more. I thank you for your time.

Mr. Hills: Any questions for Ms. Grundey, Council? Yes.

Ms. Shirey: Thank you President Hills. I just have a couple of questions. One of them you already addressed. I was wondering how many speakers did you have outside and you said you have one, and you said that you were willing to cooperate with citizens who lived directly behind there. Is it possible to not have any speakers out there? I know that outside on the patio, because now no one can smoke inside the bars or restaurants, people go out there to smoke. Is it necessary to have the speaker out there for music, knowing that is what's causing most of these problems for those citizens. So that would be one of my questions.

The second one of three - do you know what the maximum occupancy permit is for that bar?

Ms. Grundey: I do not. I believe it's under 75.

Ms. Shirey: Do you see you going over that 75 maximum?

Ms. Grundey: St. Patrick's Day, and there's a line.

Ms. Shirey: I'm just trying to get a feel for how many people. I have never been in O'Toole's.

Ms. Grundey: It's really, with the bar, I have the pictures for you, it has a very long, rectangular-shaped bar, so given that - there's not a whole lot of standing room considering the other side has the pool tables, and just two tables to seat people, and because of that, we don't have big bands often. We just don't have anywhere for them to sit in front of a stage to watch music of that sort. So everything's usually very laid back and like I said, I have the photos for you to see.

Ms. Shirey: The last thing is, I do appreciate that you guys are starting to take steps into eliminating these issues for the citizens. You did make a comment that hand-made signs were going to be put up. I can only think that those are only going to be very short-term, because while people drink and become intoxicated, they're not going to pay attention to any signs, so I think you need to come up with a stronger enforcement for that back patio to make sure that things are under control. If that means that an employee needs to be back there whenever the bar is opened, at that time to control it, then something like that needs to be done or limit the number of people that go back there. But you know, whatever we can do to satisfy these complaints, we need to make sure that this gets resolved. I appreciate your taking your time.

Mr. Hills: Thank you Councilperson Shirey. Councilperson Kelly.

Ms. Kelly: Hi. I just have two questions for you. How many people would you say, on average, are out on the back patio during like, a nice evening - like tonight.

Ms. Grundey: Well, there are fifteen chairs, so I would say at our busiest, there could be 20 to 25, with people standing, but on a Monday night, that's not likely.

Ms. Kelly: Sometimes 20 to 25?

Ms. Grundey: Sure, on a weekend, on a busy weekend night.

Ms. Kelly: And how do you typically police it now? You talked about the people are supposed to stay within the fenced-in area to be within the requirements of the liquor license. How do you police that now? How do you make sure that's happening for you now?

Ms. Grundey: Well, we have only five employees, it's not very big, including myself. One of the other employees has been there eight years, and another one almost four, and then we have bar backs, so if there's a girl bartending, she doesn't have to leave by herself. They generally come in by ____ and then it's their job to - other than assisting the bartender, to go out and monitor the area at this point.

Ms. Kelly: About how many times do you think you're going in and out, because does anybody stand out there for a, like a duration; or are they in and out?

Ms. Grundey: Well, they're in and out. It's not feasible at this time to pay someone an hourly wage to basically sit out on the patio to babysit people. I assume if it comes to that - that would be something we would have to do, but they're out there frequently and the thing with the bar is too, is that it's kind of like a Cheer's. It's a little neighborhood pub Monday through Thursday - Sunday through Thursday we know 90% of the clientele. The same people in and out and on the weekends maybe 70 - 75% and obviously this has come to light and come to everyone's attention since it was for some reason a big media focus on the front page of three papers and Channel 4 News. So everybody's pretty aware of the situation and if they're not in tune to it then they hear somebody talking about it in the Pub - I think they're made aware.

Mr. Hills: Thank you Councilperson Kelly. Any other questions? Councilman Stake.

Mr. Stake: I just have a couple comments. I appreciate your coming this evening to address this concern.

Ms. Grundey: Thanks for having me. I appreciate it.

Mr. Stake: I know that this is a serious concern to the residents back there and hopefully something can get worked out, because I hate to see a business that's been here for fifteen years expire after fifteen years. So, let me ask you a question. On the rear gates - are you notified inside when those are open?

Ms. Grundey: No. There's nothing hooked up - no alarm or anything like that.

Mr. Stake: I wouldn't, I know there's been some suggestions on how to monitor that kind of stuff - you could put something in there that would alert the bartender that the rear gates are being opened and maybe help you kind of control that situation a little bit. That's just a suggestion that I have. But, I think you are taking the residents' concerns seriously and I appreciate that and hopefully things can get worked out where they're happy and you're happy and life goes on. So thank you for coming tonight.

Ms. Grundey: Sure. Thank you.

Mr. Hills: Thank you Councilman Stake. Any more questions from anyone on Council? Ms. Grundey, thank you very much.

Ms. Grundey: Thank you.

Mr. Hills: The next speaker slip that I have regarding O'Toole's is Mr. Ahern. Mr. Ahern addressed Council three weeks ago and expressed his concerns over the situation and I have a speaker slip tonight. Sir.

Mr. Ahern: First of all, thank you for letting me appear before the City Council. Appreciate the efforts of the Mayor on his part. I've got a few items here to report. On the first of July I met with a Sergeant Kessler here at the Reynoldsburg Police Department and tried to file a formal complaint. I was told that unless Police actually catch people committing the act - a person - they

cannot arrest anybody. They don't know who makes the noise. They can't arrest the bar owner or the bartender because they simply can't. They're not making the noise. On July 2nd at 9:40 p.m. I had to call the Reynoldsburg Police to come out - noise as usual. July 10th - 1:00 a.m. - noise as usual. This past Saturday morning at 2:10 a.m. they woke me up - despite all the efforts I've made to keep my bedroom quiet. It was 2:10 a.m. so I didn't call the Police because by the time the Police would have gotten there it would have been too late. I don't - I know for a fact I've never reported any people every being on my property - never. As far as that service road is concerned - motorcycles do ride up and down there. If you know people that do ride motorcycles when they get on them and start them up after being in the bar a few hours, they have to rev the engines - that's just a natural thing to do. The speaker that you mentioned that's on the deck - that speaker's never been a problem - the people are. I put up with this for over a year. I appreciate all the efforts that Ms. Grundey has made and if we don't get a lasting and reasonable solution to this problem - I'm going to take it elsewhere. I have it on good authority that I can and I will! Thank you.

Mr. Hills: Thank you, Mr. Ahern. Any questions - Councilman Stake.

Mr. Stake: I do. Mr. Ahern, did you say that you had made a complaint with the Police Department and they didn't follow up on it?

Mr. Ahern: You suggested it....

Mr. Stake: That's right. That's why I'm asking that question, because I had heard from the City Attorney that if a complaint was made by a citizen in writing that they would follow up on that and they would cite the bartender, whoever was in charge at that time.

Mr. Ahern: They wouldn't take it. Sergeant Kessler wouldn't take it.

Mr. Stake: Okay. Well, I can ask the City Attorney - is that correct in what you told me Mr. Hood?

Mr. Hood: Councilman Stake, when we were apprised of this situation I instructed the Safety Director to respond back in email with my comments that reflect what you said - I think three weeks ago when we had this discussion in front of Council. We have done this in the past. We have cited bartenders in the past, I won't name any specific establishments, O'Toole's is not one of them, as far as I know, to reach some accord with neighbors. So I'd be happy to discuss that with Mr. Ahern after the Council meeting if he chooses, but I thought we apprised him of the proper way to do that, and if there was a breakdown with the Police Department, we'll be sure to address that as well.

Mr. Stake: So it is correct that you did tell me, and I'm not disputing what you told me, I just want to make sure that I heard you right.

Mr. Hood: We've done it in the past, Councilman Stake, and we will do it in the future.

Mr. Stake: Mr. Ahern, that's why I advised you to do that.

Mr. Hills: Any other questions from Council? I would like to note somewhat in summary - it certainly appears that there have been a number of people that have noticed and tried to take some efforts within the last three weeks. Your indication of some phone calls is that it hasn't been as good as you would like to see. I think you bring up a good point. The speaker is not the issue. The individuals that are out there is the issue - and not the speaker and I think that helps Ms. Grundey in how things may or may not be addressed. I think there's a number of good things that are being talked about. I certainly respect what Councilman Stake is saying 'I don't want to see a business leave Reynoldsburg', but I can tell you Mr. Ahern, I don't want you to take this wrong, but when you stand up and say I'm going to do this and I can do other things - you're a homeowner of this City, and, Sir, if you think you need to do something, then do it. I mean, to come up here and say that - I think the City is trying - I think the Mayor is trying - I think everybody is trying - I think the Police is trying, and I can assure you the Chief is back there now and Mr. Stake's comments and yours will be followed up with the Chief as to where this goes. There will be further discussions with the City Attorney. But sometimes the press doesn't always get things right, they always get it right, maybe there's more than one part of the story that ends up getting published, but I just want to clarify, I mean I think we're trying as a Council and as a City, hopefully, from what I can tell, this is first time I've talked to the bar owner, but it appears the bar owner - yes, we realize there's an issue and we're trying to rectify that. Is that going to happen overnight? It doesn't appear that it will, but at least everyone is now communicating and I don't know what action it is you chose to take, but please don't - if you think you need to take action, take it. That's your individual action and I would never discourage you, because you're just more frustrated if things didn't get turned around. I don't want you to take that wrong. I'm just saying I think people are trying to address the issue. Now I don't know if anybody on the Council disagrees with the fact that we're trying to address it. Mr. Clemens.

Mr. Clemens: I think we have to look at the situation that it's in a commercial district. It's a legal establishment. It's legal to have an outside patio. You drive around town, you drive in any town, they sell legal beverages and they're allowed to sit out and drink and they're allowed to sit out there and smoke. I think if we would eliminate the speaker Mrs. Shirey brought up, that would be a big help. As far as people laughing and having a good time - you're not going to be able to stop that. It's legal - it's there. I think as far as keeping them in the fence - I don't think they're going to be able to stop that. They have to have ingress and egress. I mean that's the law. You can't lock people up. It seems like some people don't know how to control themselves. That seems to be the problem. It's hard to control, but the patio is legal. People are allowed to sit out there and drink and they are still allowed to sit out there and have a good time. I think we eliminate the speaker with the music - that would be a good move. As far as the motorcycles - I'm not a motorcycle rider - I don't even like them. They make noise. They're all over town. You can go anywhere - there's motorcycles. We can't stop how a guy revs up a motorcycle. I don't like it either, but there's a lot of things I do that they probably don't like. So there's certain things we can handle, but I think if we eliminate the noise from the speaker and if you have a problem - you see somebody outside the fence doing something that's improper - then you should call the Police. I know there's a noise problem. We have noise problems all over the City of Reynoldsburg that we have a hard time handling. I think through the cooperation and with the owner and we do eliminate the outside speaker - I think it would be a big help, but we have to realize it is a commercial district and everything is legal - it's just a matter of controlling some

people that don't know how to control themselves. If we do a better job on that we might - I agree with Ron - you know. We've got to watch how we handle our businesses. We do want them in Reynoldsburg. They do pay taxes and they do help the City. It's just a matter of controlling certain items for the benefit of the public and if we can handle those, I think Mrs. Shirey had a good idea. If we eliminate the speaker - I think that's a big help - see what happens after that. See if we have the same problem, because we're not going to control people - laughing and having a good time, that's going to be hard to do.

Mr. Hills: Councilman Clemens, we do think when they have been cited, it's my understanding anyway, that it is cited for violation of noise, so when they can, do catch that, there are citations being issued. How they've been handled is one of the questions that have been raised here tonight. Yes, Councilperson Kelly.

Ms. Kelly: One thing I'd like to bring up Mr. Ahern that I do see as a positive coming from this and unfortunately I was not here a few weeks ago when this all first came to light, is that you as a homeowner, have a very vested interest in what is going on here. Ms. Grundey, as a business owner and having grown up - a long time resident of Reynoldsburg, also has a very vested interest in a positive outcome. You have both entities who want a positive outcome. That is a great place to start from. I do hope, Ms. Grundey brought this up - that there are a lot of regulars that attend O'Toole's that also have a vested interest in this having a positive outcome and I'm hoping that those are conversations that will happen in that establishment and that maybe with O'Toole's now being very involved and making a concerted effort, can kind of have some more conversation with you and you continue to have those conversations with the Police and I'm sure you know the Police Chief is also going to follow up that we can reach a positive outcome for everybody because I know that is something that all of us want to have happen also. So as someone new coming into that - that is one thing that I am pleased with today. I see both parties having a vested interest in having a positive outcome so I know I will be hoping to hear more about this and I'm sure that the Mayor's going to continue to follow up.

Mr. Hills: Yes, Councilman Clemens.

Mr. Clemens: And I do appreciate him coming before Council with your problem and so forth. We do have Ordinances - we do have laws - this is an Administrative matter - we do have a Police Department - we do have a City Attorney and we do have laws that do handle these situations and this is an Administrative matter and I'm sure that Mayor McCloud will do everything he can to satisfy both parties and I think that's the way it should be handled. So I think you keep working with Mayor McCloud - I think the situation will be taken care of.

Mr. Hills: Another question from Council? Mayor, do you have anything you'd like to add?

Mr. McCloud: Nothing additional.

Mr. Hills: Mr. Ahern, anything else?

Mr. Ahern: Well I would just like to say that I'm a citizen of Reynoldsburg, and I would very much like to satisfy myself and the bar owner, and keep this within the City of Reynoldsburg, and we

could come to an agreeable solution to the problem. That's all I'm interested in. I want to be able to go to bed at night and go to sleep. I don't think that's asking too much and I think everybody here would agree with me.

Mr. Hills: I think you absolutely should be able to do that, and want you to know that Council is always open for you to come in and keep us informed of these problems, because if you don't, we don't hear about it, or if we hear about it - it's second-hand and sometimes that's not as accurate as it is when someone comes in, so we always appreciate and that's why we have the Community Comments where this came up three weeks ago and this is our way of following up in the report section where the Mayor and Administration says this is what we're trying to do and in this case we had the bar owner come in, which I think is outstanding and you're here too and it's....it's....everybody's going to try to rectify the situation. Each time we're here we learn a few more pieces that need further answers to, and what I think we'll have is this Administration and the Police Department put those answers together and work with the bar owner and yourself and I think we'll resolve this. I'm hoping we'll resolve this, but if not, I certainly encourage you to come back and let us know.

Mr. Ahern: I will be back.

Mr. Hills: And that's fine. That's what we're here for.

Mr. Ahern: Thank you very much.

Mr. Hills: Thank you. If there are no other questions on that, Mayor would you like to do a second report?

Mr. McCloud: I do have a second report, Mr. Hills, and this is just an edification and update on an issue that has been percolating lately. Not just across our City, but across the State of Ohio and that is in regard to so-called residency requirements for certain city employees.

Our Charter, as do many Charters across the State of Ohio, has a, I will use the phrase a "Residency Requirement for two specific Directors" that says within six months of his or her appointment this Director must become an Elector of the City. As we now know, in May of 2006, the State Legislature passed a State Statute that says cities cannot legally require their employees to live within the municipal limits. This spawned a host of litigation across the State of Ohio and a host of districts. This Spring the Supreme Court took up the issue and said that "we will rule on this once and for all as to whether the Charter Provision controls or whether the State Statute Provision controls". I've spoken to the Attorneys General representing the State of Ohio on behalf of the Statute which was brought by the Fire Fighters and the FOP. In large part, the briefs before the Supreme Court were filed July 2nd, 2008 - oral arguments will be scheduled sometime late this Fall with the decision to follow and I want to be clear in concluding, that the two employees in my Administration are currently in compliance with both the State Statute and the City Charter, but the Supreme Court will rule once and for all as to this issue. I bring this to your attention just as an update.

Mr. Hills: Thank you, Mayor.

Mrs. Shirey: Can I make a comment?

Mr. Hills: Councilperson Shirey.

Mrs. Shirey: I would just like to make a comment that I know sometime back - about a month or so ago - I had specifically asked you in regards to the Charter, when the Safety/Service Director and the Parks and Recreation Director were hired, in that they were, that it was understood that they were to become an elector within the City of Reynoldsburg within six months of being hired and I said "is that correct" and you did say "that is correct". Now my question is - it is stated in the Charter - the City Charter, that they are to become residents - elector residents - within the six months of being hired. Are you telling us - not just Council members - but the citizens, that you are not abiding by the City Charter?

Mr. McCloud: No.

Mrs. Shirey: Okay - so then what exactly are you stating?

Mr. McCloud: I'm going to answer one question for you, because we've been through this again, and you can campaign on your time, not mine. You asked me what the Charter said and I told you. That is not inconsistent with anything I have said here this evening. You asked me what the Charter said and I told you. Had you asked me what the Statute said - I would have told you that. Mr. Hills I'm not engaging in any other....

Mrs. Shirey: But we are running on the Charter.

Mr. Hills: Councilperson Shirey, if you want to make a closing statement fine, but I do think that we've all discussed this, and the issue is not Legislative matter at this time, and I don't think the Mayor is incorrect in his statement. The matter is before the Supreme Court and certainly however they rule is going to resolidify what's in the Charter or it's going to say "Hey folks - you can't do what you got in the Charter". Now I don't think anybody asked to be put in the situation - we're here - there is no Legislative matter before Council and I just want everybody to understand that and I think this was a report - I don't think this was for debate. I also try to be sure that everyone gets to answer some statements, but I'm not sure that there's an issue pending so it's hard to debate the issue. Obviously, you want to say the Charter prevails, and I think what the Mayor had just said is - yes the Charter is what it says - but there is a matter in the Supreme Court that might say that Charter can't say those things. Now I think that's where we are right now. That's as far as we are. I don't know how we delineate from that exactly what is right - wrong or indifferent, because everything's in a holding pattern. Councilman Stake you had some statement to put in.

Mr. Stake: I just had a comment President Hills and I appreciate that and I appreciate the Mayor bringing this up tonight. This is by no means a reflection on the people who are serving in those positions, but I do believe that there is an opinion from an outside Law firm requested by the City Attorney, which I believe the City Attorney agrees with, that says that the Charter would need to be amended in order to bypass that residency requirement. I see the Mayor shaking his head, but that's what it says, so if the press wants to get a copy of this - they can get it from the Clerk. But

it does say that in order to bypass the residency requirement it would have to be brought to the voters and you know - I'm a pretty simple guy. I just want to go by what the Charter says and again - this is no reflection on the people that are serving in those positions. I think they're fine people and I think they deserve those positions, but if we're going to make a change to the Charter - it needs to be done by the voters, not by the Mayor - not by City Council - but by the voters, in regards to this, and there is a home rule provision that, in my opinion, that prevails in this instance, and as far as I know - there are also three Circuit Court decisions on this issue that back up what the legal opinion I have in front of me states. Thank you, President Hills.

Mr. Hills: Thank you and I think we'll probably....Mr. Clemens.

Mr. Clemens: Yes. You know, this is a subject that I've thought about for a long time and I've been a Charter person and I do know what the Charter says. Also I do know what the law that the State of Ohio passed says, that our Charter is unconstitutional and that's where we're hanging I think that's what the Mayor tried to explain. I believe that if our Charter is ruled constitutional - that then they should have to live in Reynoldsburg within the six months; but if they rule the State Law is constitutional and ours is not, then we're going to have to make some changes to abide by the State Law. So I think we're in the middle right now. By the State - our Charter is unconstitutional. So which one do you go by and I understand that's the position the Mayor's in because the Supreme Court is going to rule on that and you have to look at it two ways. Would it be fair to ask our two employees that he's speaking of, to move to Reynoldsburg within six months and then six months after that the Supreme Court rules our Charter is unconstitutional so they wouldn't have had to start with, then what happens? Which way do you go? And I think that's an Administrative matter. I don't know of any legislation that Council can do about it. We can't change the Charter, any such thing as that, so as I believe the Mayor said this evening, they at the present time - everything does meet our Charter; so I think the time to worry about it is after we feel that the time limits were moved on, but then it would not meet our Charter, but it would meet the State law, so I think we're in a situation that we can't change. There's no getting around it. It's either going to be the State is going to be the law that they pass that the Charter cannot require this is going to be true or the Supreme Court is going to rule that our Charter stands and the State can't overrule home rule. It's going to be a big decision - not only for us - it's going to be a big decision for the State of Ohio, because it means it has to do with home rule which we have, so I think this is the time - really not the time to worry about it. Everything the Mayor said here tonight, everything meets our code and our Charter at the present time. We do have a little time left before we start worrying about it, but if anybody can come up with something that they feel Council can do or has a part in, I can't figure out what it would be because we can't change the Charter, so I think that the Administration is the one that has to make the solution and I think the Mayor had made a point that's what he's going to do. He's going to hold things in abeyance if I understand that correctly. I think that's what we have to do, wait and see when the time period's up.

Mr. Hills: Councilman Clemens, I certainly appreciate your comments. I appreciate everybody's comments, but I do think, because I don't want the press to mess this up, we've got people up there talking about legal decisions now and we're not attorneys. I am an attorney, but that doesn't mean, no one's said anything to the City Attorney yet. The Mayor's an attorney, but let me, just so the Press doesn't mis-state it, they never screw it up, the Section of the Code being referred to is

9.481 - 9.481 and I suggest that all of you, before you write about it, go read it and it's residency requirements prohibited. It was passed by Senate Bill 82 in 2006 to go into effect 5-1-06 and it does in it's uncodified language, in essence, if you take the legalese out of it - it says that home rule isn't going to count as for residency any more. Here is the Standard that you have and it's adjacent counties. Now that's being contested in Court. It's on the appeals. It's in the Supreme Court. It's as high as it's going to go. Now I'm now sure that there is a right or a wrong as to residency as of today, but there will be answers when it's resolved out of the Supreme Court and then we, as a city, will have to comply with those. Our Charter may be unconstitutional and will be corrected and it won't be corrected at that time by the vote of the people. It will be corrected legislatively, because the Supreme Court has said your Charter's not right. It's unconstitutional, you've got to take it out of there. Or it may hold. At that time folks, if you're not here, you better get here, because you're not going to be here long if you don't. Let's just wait and let the legal system prevail the way it's supposed to. That's part of it - that's that third prong. You've got the Administrative Branch of Government - you've got the Legislative Branch of Government, and right now the Judicials have ahold of this. So I'm not sure that there's any issue before Council, nor is there any issue that Administration can do, or Legal can do until we get a resolution - an answer out of the Supreme Court. I guess I'll ask one time. Is anybody going to want to say anything else, because I think debating time should stop on this issue until we get an answer. Mrs. Shirey, you've had your hand up.

Mrs. Shirey: I thank you. I just want to make a closing statement. Just so that the citizens are aware - this is a conversation that's been going on for quite some time and so that they'll know if, you guys, please go read the Charter. During the interviewing process....

Mr. Hills: Excuse me, Mrs. Shirey, did what I say not make sense?

Mrs. Shirey: It made sense.

Mr. Hills: Then why are we going to open the debate again?

Mrs. Shirey: I'm not opening the debate.

Mr. Hills: Let's let the Court, who has the issue in their lap, let's let them rule before you go back and make your presentation or somebody says they don't have to be residents. Right now the secondary issue on the Statute that was passed by the General Assembly - is our Charter unconstitutional and that's what we're waiting to hear. If the City Attorney can tell me if there's another way we're going to hear that other than the Supreme Court - please stand up and tell me that because if you can't - this is shut down - it's over. The discussions are gone.

Mr. Hood: Thank you for the invitation, President Hills. The only thing I would say this evening is I believe that the Mayor's statement is correct. At this point, there's nobody in the City of Reynoldsburg that's violating either the Charter or the State Law; and secondly I would stand by the advice he gave you in the Executive Session.

Mr. Hills: I appreciate everybody's comments. Let me assure you, the residency issue is done (use of gavel) until we have some answers. Moving on to report # 9b, City Attorney Hood - see you shouldn't have sat down. It's going to take us a lot longer to get through the reports than it

will to get through the short agenda we have tonight.

Mr. Hood: Thank you, President Hills, Mayor, members of Council. I come before you tonight to report on a Liquor Hearing that we had at the Department of Commerce this year - not involving O'Toole's Pub, but Milligan's Pub on Brice Road. If you remember some time ago, the Police Department did a routine investigation as they normally do, of a new Liquor Permit or a stock transfer of any existing permit. There were some irregularities that were found by the Police Department, and Chief Suci, at that time I believe recommended to Safety Committee that we file a notice of Appeal Hearing and that was commenced on February 25, 2008. The motion was passed by Council to do so. After a thorough investigation headed by Chief Suci, Sergeant Baughn, and Officer Bock, Assistant City Attorney Roth and myself held a hearing on May 2, 2008 at the Department of Commerce where testimony was given. Cross-examination was held and the City presented evidence on behalf of our case. We were made aware, and I think I made copies of the decision, that the City prevailed in this Hearing and the stock transfer was stopped pending any Appeal rights of the people that tried to get the permit have until the end of this month. But at point, the two gentlemen who were to procure Milligan's Pub were not able to procure the Liquor License, so if they're going to operate Milligan's Pub, they're going to do it without a Liquor License at this point. Like I said, the Appeal rights do end on the 26th of this month. I called this morning, as of today there has not been a Notice of Appeal filed with the Department of Commerce and I believe that Mr. Milligan will have to find somebody else to buy this - or procure this bar and operate it in a lawful manner. I'll entertain any questions that you may have.

Mr. Hills: Any questions from Council for the City Attorney? Jed, I appreciate you all - I appreciate #1 - the Police saying "we have some questions about this - we're not sure they should be selling liquor". I appreciate that. I appreciate you following through and I appreciate the State having a hearing and saying "we agree - their background is not such that they should be selling - licensed". The only question I would have there is "State - why'd you issue it then" but that's a different story, but I'm glad the system allows those things to be caught and I think it a good example for a bar owner that's running a straight, legitimate no-problems bar they don't like to know that others aren't being operated so I do think that this shows the system works and I appreciate the fact that we as a City moved forward to contest something we had questions on. Does that raise any other questions that anybody else has? Mr. Hood, thank you very much.

Mr. Hood: Thank you, President Hills.

Mr. Hills: Moving to Item #9c. Auditor Harris.

Mr. Harris: Thank you President Hills and members of Council. As required by the Ohio Revised Code, the City did file with the Auditor of State our annual Financial Report prior to the date on June 30, 2008. I did put a copy in the Council office. I think Mrs. Frazier made copies for everybody. It is online on the City website. It's online on the State Auditor's website and there are paper copies available in my office for anybody in the public who wants one. We've also filed a notice in the Columbus Dispatch as required by the Statute. Just a couple things about it. Let me just read a couple of short paragraphs out of here. There is no legal requirement for the preparation of this report. It represents a commitment by the City of Reynoldsburg to conform to nationally recognized standards of excellence in financial reporting. Responsibility for both the

accuracy of the presented data and completeness and the fairness of the presentation including all disclosure rests with the City. To the best of my knowledge and belief, the enclosed data is presented as accurate in all material aspects as presented in a manner designed to fairly set forth the financial position and results of operations of the city includes all disclosures necessary to enable the reader to gain an understanding of the City's financial activity. As also required by law, these Financial Statements were audited by the firm of Wilson, Shannon and Snow. This was done through the state bid process and the State Auditor's Office did approve the auditors. To read what it said in here - they conducted an audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to the Financial Audits contained in the Comptroller General of the United States Government and Auditing Standards. These Standards require that we plan and perform the audit to reasonably assure whether the financial statements are free of material mis-statement. An audit including examining on a test basis evidence supporting the amounts and disclosures in the Financial Statements. The audit also includes assessing and accounting principles used in significant estimates made by the management as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion. In our opinion, the Financial Statements referred to above present fairly and all material aspects, the respective financial position of the governmental activities and the business-type activities for each major fund and the aggregate remaining fund information for the City of Reynoldsburg. This is required every year. We have complied and just wanted to report to Council that we have. I'll be glad to answer any questions, if anybody has any.

Mr. Hills: Are there any questions of the Auditor? Councilman Stake.

Mr. Stake: I just have a quick comment President Hills. Appreciate Auditor Harris speaking about this, this evening. I know that we did receive a copy from the Clerk; she copied everybody on that, and I would just suggest to Council members, to take a look at that and if you have any questions, please address those to the Auditor. I know it's something that's an annual thing that has been presented to Council. Thank you.

Mr. Harris: Thank you, Mr. Stake.

Mr. Harris: Any time anyone wants to talk about the Annual Financial Statements or anything else that comes out of my office, I'd be more than happy to meet with anybody on an individual basis.

Mr. Hills: Okay. Thank you.

Mr. Harris: Thank you.

Clerk read Motion: That the Parks and Recreation Director is hereby authorized and directed to advertise for bids to replace the roof of the Senior Citizens Center.- -Mr. Deskins moved adoption of the Motion. Mrs. Shirey seconded. With the roll called, members voted: Mrs. Shirey; "Yea"; Mr. Stake "Yea"; Mr. Deskins "Yea"; Mrs. Kelly "Yea"; Mr. Joseph "Yea"; Mr. Clemens "Yea". Motion passed.

ORDINANCE AUTHORIZING MAYOR TO ENTER INTO CONTRACT WITH THE

FRANKLIN COUNTY BOARD OF HEALTH FOR INTEGRATED MOSQUITO
MANAGEMENT SERVICES- -Clerk read ordinance by title for the second reading. Item
referred to Safety Committee.

ORDINANCE TO ACCEPT AN APPLICATION FOR ANNEXATION OF 3.5+/- ACRES IN
TRURO TOWNSHIP, COUNTY OF FRANKLIN, STATE OF OHIO, TO THE CITY OF
REYNOLDSBURG, OHIO (Charles R. Wilson, agent)- -Clerk read ordinance by title for the
second reading. Item referred to Service Committee.

RESOLUTION ADOPTING THE TAX BUDGET OF THE CITY OF REYNOLDSBURG
OHIO, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009 AND DECLARING AN
EMERGENCY- -Clerk read ordinance by title for the third time. Mr. Stake moved to amend the
resolution to include the words "including all revisions". Mr. Clemens seconded. With the roll
called, members voted: Mrs. Shirey "Yea"; Mr. Stake "Yea"; Mr. Deskins "Yea"; Mrs. Kelly
"Yea"; Mr. Joseph "Yea"; Mr. Clemens "Yea". Motion passed; resolution amended. Mr. Stake
moved adoption; Mr. Joseph seconded. With the roll called, members voted: Mrs. Shirey
"Yea"; Mr. Stake "Yea"; Mr. Deskins "Yea"; Mrs. Kelly "Yea"; Mr. Joseph "Yea"; Mr. Clemens
"Yea". Motion passed; Resolution No. 45-08 adopted.

Meeting adjourned at 8:31 p.m.

William L. Hills, President of Council

Nancy C. Frazier, Clerk of Council