

MINUTES REGULAR COUNCIL MEETING
REYNOLDSBURG CITY COUNCIL
July 12, 2010

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

Members of Council present: Leslie Kelly, Doug Joseph, Mel Clemens, Chris Long, Nathan Burd, Fred Deskins, Jr. Councilman Barth R. Cotner was absent.

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

Minutes of the regular Council meeting held June 28, 2010 were approved without objection.

The agenda was approved.

Community Comments and Requests:

Mr. Hills: This is the opportunity for anyone from the community that wants to address Council on issues that can either be on the agenda or not on the agenda, but it's your opportunity to do it. I don't have any speaker slips, but I have a feeling we do have some speakers here tonight. So, if they'd like to, be sure to come to the mike and give us your name and address and fill out a yellow speaker slip when you're finished. We can take comments. Does anyone think they want to address Council on anything that's not on the agenda? **Does anybody have something they want to address Council that is on the agenda for tonight?** Yes, Sir.

Gentleman in the audience: Is now a good time?

Mr. Hills: Now's a good time, if you'd like. I mean, is this on the Community....

Gentleman: It's on the curfew.

Mr. Hills: The curfew thing? You can do it now, because you see tonight, all there'll be is a hearing, this is a first time, and then we'll send it back to committee. So if you all want to express your comments now or you can wait 'til then, but....

Gentleman: We'd rather wait 'til (inaudible).

Mr. Hills: Okay, because there will just be a title reading, and it will stand for, we'll ask for questions at that time. Does anybody have anything that's not on the agenda that wants to be addressed? Seeing none, we will move to Item 8, Communications.

Communications: Clerk read report from Clerk of Court - total monies collected from courts held during the month of May 2010 - \$35,030. Monies also collected during that period pursuant to

Ordinance Numbers 146-94 and 104-02- - \$2,769 for the Computerization Needs Fund; and \$185 for the Enforcement and Education Fund.

ORDINANCE AUTHORIZING ENGINEERING SERVICES FOR THE BRICE ROAD IMPROVEMENTS (south corporation limit to East Main Street) ROUND 25 GRANT APPLICATION AND DECLARING AN EMERGENCY- - -Clerk read ordinance by title for the one required reading. Mr. Clemens moved adoption. Mr. Joseph seconded. With the roll called, members voted: Mrs. Kelly “Yea”; Mr. Joseph “Yea”; Mr. Clemens “Yea”; Mr. Long “Yea”; Mr. Burd “Yea”; Mr. Deskins “Yea”. Motion passed; Ordinance No. 42-10 adopted.

AN ORDINANCE AMENDING THE SUMMIT ROAD TAX INCREMENT FINANCING (TIF) AGREEMENT TO REMOVE LAND PURCHASED BY THE BOARD OF EDUCATION FOR THE REYNOLDSBURG CITY SCHOOLS AND DECLARING AN EMERGENCY- - -Clerk read ordinance by title for the one required reading. Mr. Deskins moved adoption. Mr. Burd seconded. With the roll called, members voted: Mrs. Kelly “Yea”; Mr. Joseph “Yea”; Mr. Clemens “Yea”; Mr. Long “Yea”; Mr. Burd “Yea”; Mr. Deskins “Yea”. Motion passed; Ordinance No. 43-10 adopted.

ORDINANCE AUTHORIZING MAYOR TO ENTER INTO GRANT AGREEMENT (Clean Ohio Assistance Fund - Cleanup Agreement) (cleanup and remediation of a Brownfield located at 6300 East Livingston Ave., Reynoldsburg, Ohio known as the Former Big Bear Store #256 Project) AND DECLARING AN EMERGENCY- - -Clerk read ordinance by title for the one required reading. Mr. Deskins moved adoption. Mr. Clemens seconded. With the roll called, members voted: Mrs. Kelly “Yea”; Mr. Joseph “Yea”; Mr. Clemens “Yea”; Mr. Long “Yea”; Mr. Burd “Yea”; Mr. Deskins “Yea”. Motion passed; Ordinance No. 44-10 adopted.

ORDINANCE AUTHORIZING MAYOR TO ENTER INTO A DEVELOPMENT PARTNER AGREEMENT OF UNDERSTANDING REGARDING THE CLEAN OHIO ASSISTANCE FUND GRANT (the Former Big Bear Store #256 Project located at 6300 East Livingston Ave., Reynoldsburg, Ohio) AND DECLARING AN EMERGENCY- - -Clerk read ordinance by title for the one required reading. Mr. Deskins moved adoption. Mr. Long seconded. With the roll called, members voted: Mrs. Kelly “Yea”; Mr. Joseph “Yea”; Mr. Clemens “Yea”; Mr. Long “Yea”; Mr. Burd “Yea”; Mr. Deskins “Yea”. Motion passed; Ordinance No. 45-10 adopted.

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: Section 537.14 “Curfew” of Chapter 537 Offenses Against Persons REQUIRING SCHOOL ATTENDANCE AND ESTABLISHING A DAYTIME CURFEW FOR MINORS BETWEEN THE AGE OF SIX AND UNDER THE AGE OF EIGHTEEN- - -Clerk read ordinance by title for the first reading.

Mr. Hills: Okay, I do know we have some speaker slips on this; so has everybody turned in speaker slips, or do we only have the one?

Gentleman in the audience: I’ve not turned in mine yet.

Mr. Hills: Would you like to come to the mike and address your issues or questions or statements and then we’ll turn the speaker slips into Mrs. Frazier and if you would, please give your name and

address for the record.

Mr. Fuller: Thank you very much President Hills, members of Council. My name is Jason Fuller, 500 Waring Way, Columbus, Ohio. I rise in opposition to ordinance section 537.14. I did not, I just became aware of this ordinance yesterday actually, so forgive me if my references aren't quite as precise as perhaps they would be otherwise. Again, I rise in opposition to this proposal to enact a daytime curfew in the City of Reynoldsburg. There are several reasons that I oppose this proposal and I guess I'll just read, I'll read off what I've come up with. First off, I believe that it's unconstitutional. As an attorney, I think I've had a fair amount of education in what is constitutional and what is not. I've taken a year of courses in Constitutional Law and also dealt with some constitutional issues with my profession. So, the Fourteenth Amendment of the United States Constitution has been applied in this respect to the states through the Fifth Amendment and the Fourth Amendment. There are several fundamental rights that the Fourteenth Amendment guarantees the people of this city. One is the fundamental right to movement in public thoroughfares. So any person, whether it's a child, an adult or anybody else has a right to move in public places. Under the Fifth Amendment and the under the Fourth Amendment, we are guaranteed the rights to remain free from unreasonable searches and seizures and we are guaranteed the right to be presumed innocent of any crimes, and the daytime curfew simply is a way to presume there is a problem going on when you see a person who may or may not be committing any problems at the time. So you can make an unreasonable stop of that person, you can make an unreasonable seizure of that person, without any probable cause. The Constitution does require probable cause. That means there needs to be at least a scintilla of reasonableness behind the stop or behind the seizure and just seeing a child or a person under the age of eighteen on the street does not indicate that there is a problem; it does not indicate that there is any kind of wrongdoing going on. My existence does not mean that I'm doing something wrong, neither does the child's and I fear that if we enact ordinances like this, that we are inculcating our children in values that are not consistent with freedom, not consistent with our Constitution, not consistent with our City Charter. We are indoctrinated into thinking that there's no distinction between good people and bad people. There's no distinction between people who are committing crimes and who are not. Everybody is subject to police search and seizure and that's wrong, that's wrong. Everybody, whether you're a responsible citizen or whether you're not, you need to, I heard, I read a newspaper article on this yesterday. I guess there's talk of having a, children who are privately educated in private schools for instance, register their names with police and having their names on roll calls. I don't understand why innocent and presumably, and we have to presume this because it's the nature of our laws in this country, presumably well-upstanding children would be, have to, would have to put their name on some kind of roll, and be under some kind of scrutiny by the police without any due cause, without any probable cause even. It speaks of, I hesitate to use the word, but it reminds me of an Orwellian law.

There is also the fundamental right to rear, for the parent to rear and bring up the child as he or she so chooses. That's a right guaranteed by the Fourteenth Amendment of the United States Constitution and there, and has been guaranteed through the States. We have cases, *Truxell v Granville*, 530 US57, 2000. *Partum VJR*, 442 US584. These are two of several, several cases that the United States Supreme Court has handed down saying that the Fourteenth Amendment does guarantee the right to bring up and rear children as the parent desires and the parent is presumed to have the proper motives and understanding of what each child needs and education, whether we want to believe it or not, because I admit there are problems with youth nowadays that

we didn't have maybe several decades ago, but education in light of that, nevertheless, does take place outside the classroom. There are educational things that take place outside of the classroom. If someone is doing a chore for some special school group or is doing some kind of a field trip or has a special task, there's no reason that child should be stopped and scared to death and made subject to some kind of a, made to feel like they're doing something wrong, when all they're doing is obeying or trying to please either parents or teachers or fellow classmates. So we need to be very careful what we're teaching our children. Are we teaching our children that we are a society of compulsion, a society that does not value freedom, or are we teaching them that you know, their lives are respected and their rights are respected. We need to think very strongly about what we are teaching our children.

The truancy laws in this state are already well-established. Ohio Revised Code Section 3321 establishes laws that give teachers and school officials the power to investigate truancy. Ohio Revised Code Section 3326 gives State Officials the right to enforce truancy laws. Ohio Revised Code Section 2152 provides the State with the ability to enforce steeper penalties against students who are habitually truant. We already have in place exactly what we need to combat any truancy problems. There has been no hard data suggesting that daytime curfews have decreased the incidents of juvenile delinquency. In fact, those who are hardcore juvenile delinquents are not going to be deterred by such a law. They're going to find a way to hide from it. They're going to find a way to do things behind the police's back, just like real criminals do, but upstanding children, law-abiding children who are trying to learn how to obey society's rules and grow up in society that is mutually respectful of each other's rights are not going to be, are going to be the ones who are subject to this law. They're going to be the ones who are put under pressure, who are put under fright and who are made to think that their rights are somehow less important than everyone else's. Laws that do not require probable cause like this one who, that just require that a child exists somewhere outside of a school building during school hours are very enticing for people who want to selectively enforce the laws. So when someone, a Police Officer is inclined to dislike a child that he or she sees, based on appearance, based on looks, based on race, based on gender, that, when there's no probable cause required, when there's no warrant required, selective enforcement is a danger and we need to be very careful about that. I think I've covered all the issues I wanted to. Again, I just want to re-emphasize that my main concern is what we're teaching our children. Are we teaching our children that they are less of a citizen than an adult? Are we teaching our children they are, even if they are upstanding, law-abiding citizens, that they are somehow subject to warrant-less searches, warrant-less stops, warrant-less seizures, without any probable cause, without any due cause, without any just reason just because they are smaller or younger than anybody else? And I thank the Council for their time. If you have any questions, I'd be glad to address those.

Mr. Hills: Any questions for Mr. Fuller? Thank you Mr. Fuller and let me remind the other speakers, the sheet out there will say the time is about three to five minutes, so if you can try to stay within that time. I do want everyone to have the opportunity to speak tonight, but I also want you to understand tonight is just a first reading and it's going back to committee. Committee is where the discussions will take place on this. We'll be back in committee next Monday and whether it comes to Council or at least further talk will certainly be up to committee members. Okay?

Mr. Fuller: Thank you, President Hills.

Mr. Hills: Thank you, Mr. Fuller.

Mr. Fuller: Thank you, Council members.

Mr. Hills: Again, I don't have any slips. I see some slips if you want to bring that up, Sir. If you can give it to her it's fine and if you could, somewhere between three to five minutes.

Mr. Godsey: My name is Jor-El Godsey, I live at 8426 Priestley Drive. I've been a Reynoldsburg resident for the last four-plus years and I appreciate very much the desire of the Council and all the elected officials and the public, the public servants who work in and around Reynoldsburg to help keep us safe, to help watch over our neighborhoods, to help make Reynoldsburg a good city and a good place to live, and I appreciate that heart and that attitude, but with that, I would also like to help you understand that as a home schooling family, we contribute to the public schools, as we are required to do through our taxation, but at our own expense, we keep our kids at home and we educate them to be good citizens, and I would ask you to respect their rights and their desires to enjoy all that Reynoldsburg has in the time frame that is allotted to them, that we have paid for or we have contributed to, and we have allowed for, because we are teaching them to be model citizens, to raise them to be good people who respect and enjoy that which you have provided and I would invite you to think long and hard as you ponder this, that you understand that we feel with the truancy laws that are in existence are quite adequate and should be enforced and there's plenty of things that allow good officials like yourselves to do the job that you need to do without necessarily having our children's names put on a list that they have no real reason or right to be on or to be asked to be on. We already submit our paperwork to the public school, we let them know what we are doing, we provide a copy of our curriculum that we're doing so that we can be on board with them and be treated so they understand what we're doing, and we are certainly willing to be subject to any truancy laws that would apply, but I would ask that you would seriously consider the idea that a little one such as a nine and an eleven year old who are now getting into the age where they can be outside, not completely supervised, and enjoy the sidewalks and the wonderful parks and things that are available to them, with good supervision and in a proper time frame and not be confined to when all the other kids are out doing things, and that's what we would ask that Council would remember. Thank you.

Mr. Hills: Thank you for your comments. Any other speakers? If you would, provide your name and address for the record.

Mr. Neumann: David Neumann from 558 Brice Road. I probably can't last three minutes. Everything I had to say has pretty much already been said, except again, we are home schoolers and we kind of try to stay inside anyway just to not attract attention. There's a big difference from having to stay inside and wanting to stay inside. So I'd just like to voice my opinion against it. Thank you.

Mr. Hills: Thank you, Mr. Neumann. Additional speakers? You want to bring your slip over? Yes, if you could give your name and address for the record.

Mr. Boukel: My name's Jay Boukel, 2118 Belltree Drive, Reynoldsburg. I've been a resident for the past twenty-one years. I just want to voice my opposition to the proposed ordinance.

Everything's pretty much been said. Whether they be home schoolers or private schoolers, or even public school, there should be no infringement on the rights of the people; and my other concern that hasn't been voiced is potential litigation that may occur to Reynoldsburg if this is passed, because it does open up a slippery slope targeting different individuals that shouldn't be targeted. So that's pretty much all I have to say.

Mr. Hills: Thank you for your comments.

Mr. Boukel: Thank you.

Mr. Hills: Any other speakers? Anyone who hasn't filled out a slip, but still would like to address us? It's always possible also. You want to bring your slip forward.

Mrs. Tornero: My name's Elaine Tornero, 7716 Critwell Court. As they said, everything's pretty much been said. I got information from the Home School Legal Defense and they have a lot of information that I would encourage everyone to look at. They, in particular it's an extensive study by the National Center for School Engagement, found that daytime curfews are ineffective and they become counter productive, _____ and it goes on, but I do have the website that you can read that extensive study. I think that's important. I have things underlined here that have been said already. I felt like for my daughter, as a home school family and I only have one left that's home schooled, but the first thing I could picture was, I don't want her to have that mentality of when she's out and about, that she has to hide from the police and that I know would be her first, her first feeling, like oh-oh, there, even though she's innocent. I don't want my kids' names on a list. That really bothers me and finally, you know, I heard a lot of things that were said and I appreciate that, but as I was leaving, one of my daughter's friends was over who's home schooled in Westerville and her grandmother lives in Columbus. So as I was explaining why I was leaving the house tonight, Lydia, my daughter's friend said 'oh that's why I can't go outside at my grandma's house, you know Bethany and I can't take a walk anymore in the afternoon because Columbus evidently has that around Sharon Woods, around that area'. So I mean, to me, it's just such a sad thing. It really does I think, take away our liberties and takes away the freedoms and I feel as though we're punishing the good kids essentially. So, thank you.

Mr. Hills: Any other questions or comments? Mr. Clemens, I believe you'd asked for this to be sent back to Committee. If there are no questions or comments....

Mr. Clemens: That's correct.

Mr. Hills: Does Council have any questions or comments at this time? If not, Item No. 14 will be returned to the Safety Committee next Monday night for discussion to continue.

ORDINANCE AUTHORIZING CITY AUDITOR TO REMOVE ITEMS FROM THE CITY'S FIXED ASSET LIST- -Clerk read ordinance by title for the first reading. Item referred to Finance Committee.

RESOLUTION ADOPTING THE TAX BUDGET OF THE CITY OF REYNOLDSBURG OHIO, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2011 AND DECLARING AN

EMERGENCY- - -Clerk read ordinance by title for the first time. Mr. Hills set a Public Hearing for June 28, 2010 at 7:15 p.m. in Council Chambers.

RESOLUTION AUTHORIZING THE MAYOR TO SEEK FINANCIAL ASSISTANCE FROM THE OHIO PUBLIC WORKS COMMISSION FOR THE FUNDING OF VARIOUS CAPITAL INFRASTRUCTURE IMPROVEMENT PROJECTS (Brice Road Improvement Project, from south corporation limit to East Main Street)- - -Clerk read ordinance by title for the first reading. Item referred to Finance Committee.

ORDINANCE AWARDING DEPOSITS OF PUBLIC FUNDS- - -Clerk read ordinance by title for the first reading. Item referred to Finance Committee.

ORDINANCE AUTHORIZING AND DIRECTING THE CLERK OF COUNCIL TO CERTIFY GRASS AND WEED CUTTING COSTS FOR COLLECTION BY THE FRANKLIN COUNTY AUDITOR- - -Clerk read ordinance by title for the first reading. Item referred to Finance Committee.

ORDINANCE AUTHORIZING AND DIRECTING THE CLERK OF COUNCIL TO CERTIFY GRASS AND WEED CUTTING COSTS FOR COLLECTION BY THE LICKING COUNTY AUDITOR- - -Clerk read ordinance by title for the first reading. Item referred to Finance Committee.

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 - 1755 Lancaster Avenue; from AR-1c to NC ; (.371 ac.), applicant, George J. Igel, V- - -Clerk read ordinance by title for the second reading. Item referred to Service Committee.

ORDINANCE MAKING TRANSFER OF FUNDS FOR EXPENSES RELATED TO ASSET FORFEITURE- - -Clerk read ordinance by title for the second reading. Item referred to Finance Committee.

Meeting adjourned at 7:57 p.m.

William L. Hills, President of Council

Nancy C. Frazier, Clerk of Council