

MINUTES REGULAR COUNCIL
REYNOLDSBURG CITY COUNCIL
June 9, 2003

Council President Bradley L. McCloud called the meeting to order at 7:30 p.m.

Members of Council present: Sarah Cannella, Jim Wade, Eric Gilbert, Mel Clemens, William Hills, Lane Beougher, Ron Stake.

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

Minutes of the regular Council meeting held May 27, 2003 were approved without objection.

Mr. Hills moved to reschedule the Executive Session at the conclusion of the Council meeting until the following week. Mr. Clemens moved to hold item 15 (ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO: CHAPTER 505 ANIMALS AND FOWL) and refer it to Safety Committee. The amended agenda was approved with all voting "Aye".

Community Comments and Requests:

(Discussion that follows is result of continuation of Appeal Hearing that had been held prior to Council)

Stan Knox: You folks know who I am.

Mr. McCloud: Would you please state your name for the record please?

Mr. Knox: Stan Knox, 6821 East Main Street.

Mr. McCloud: Thank you.

Mr. Knox: I just wanted to basically plead with you folks, and ask you if there's any way possible way that I could get another vote since all the members are here. And, I just didn't think it was quite even enough. And, on top of that, it's just a shame to the public what that building is going to look like if we don't get this second vote. And I just ask if there's any way possible if we can have a second vote on the issue.

Mr. McCloud: Thank you, Mr. Knox. Mr. Underwood, can you refresh my memory on a motion for reconsideration, and it has to be from the prevailing side, and that's about where I get a little fuzzy.

Mr. Underwood: That's right. It has to be from the prevailing side, and during the same session, and you're still in session. So, you can probably make it, if somebody wants to make it and second it.

Mr. McCloud: Can everyone who's now present vote? Or just those individuals who were

present for the Appeal Hearing vote?

Mr. Underwood: That I can't answer. I would say that anybody's present now could vote, because you're still in session.

Mr. McCloud: And it has to be at this session? We could not do this next week?

Mr. Underwood: My recollection is, this session.

Mr. McCloud: Okay. I think I have it. Article 8, Section 10, "The action of Council could be reconsidered by the implementation of the vote to reconsider. Such motion to be made by a member of the prevailing side to be done at (1) the same meeting or (2) the next meeting of Council, following the meeting at which the action to be reconsidered occurred." So we could do it next week as well. Any discussion at the table, I guess from Mr. Clemens and Mr. Wade.

Mr. Clemens: Yes. Public Hearing was set for 6:45. We all knew that two weeks ago. If you're not able to be here, so be it. I realize if I was not here, I'd expect Council to proceed in an orderly manner, take action. The Public Hearing was voted on and adjourned. I've never heard of a Public Hearing being restarted again and I've been around this town - for as long as I've been here - to carry it over just because the vote didn't go the way it went, I would not be in favor of redoing it. No.

Mr. McCloud: Thank you, Mr. Clemens. Mr. Wade.

Mr. Wade: This is the next meeting. Is it not?

Mr. McCloud: Um hum.

Mr. Wade: And I think the Charter says that it can happen at that meeting or the next meeting.

Mr. Clemens: If a member of the prevailing side makes the motion.

Mr. Wade: Which I'm about to.

Mr. McCloud: Okay. Any other discussion? I feel a motion in the pipeline. Mr. Gilbert.

Mr. Gilbert: What's the prevailing side?

Mr. McCloud: Prevailing side, the vote was three to two to deny the variance. To uphold the BZA denial.

Mr. Hills: Three to two to grant.

Mr. McCloud: Three to two.

Mr. Clemens: So the prevailing side was Sarah and I. Because we upheld the denial from the committee.

Mr. McCloud: Prevailing side.

Mr. Clemens: Certainly the prevailing side would be. We upheld the denial from the B&Z committee. So the prevailing side would be Sarah and I. We were the prevailing side.

Mr. McCloud: To me, Mr. Underwood, can you, to me the prevailing side I think would be the majority.

Mr. Underwood: The three vote was to do what?

Mr. Wade: To grant the variance.

Mr. McCloud: To, we placed it in the affirmative.

Mr. Underwood: Okay.

Mr. McCloud: And there were three nays and two...

Mr. Underwood: The three nays are the prevailing side.

Mr. Clemens: It was just the opposite. There were two nays and three ayes.

Mr. Underwood: Okay. The three ayes are the prevailing side then.

Mr. Clemens: They didn't pass.

Mrs. Cannella: It didn't pass.

Mr. Underwood: But the vote went in the affirmative and the three in the affirmative carried the day.

Mr. Clemens: It didn't pass, so it can't be prevailing.

Mr. Underwood: No, you didn't pass. You only had two votes.

Mr. Clemens: It didn't pass. It couldn't be the prevailing side. How could it be the prevailing side if it didn't pass, Bill?

Mr. Hills: President McCloud.

Mr. McCloud: Yes.

Mr. Hills: Could we take about a five minute recess and maybe talk about this with the City Attorney because I think what it, I think that three's a prevailing side, and the ordinance says it takes four to have passed. But, there was not four, but that doesn't mean the three didn't prevail.

It's just it didn't meet the minimum of four. But I think maybe I'd like to relook at our own rules and regulations a little bit before we finalize this thing.

Mr. Clemens: I think we should too.

Mr. McCloud: I'll entertain a motion to recess. That I can do. So moved by Mr. Hills. Second by Mr. Beougher. All in favor of recessing, signify by saying aye. (All voted "Aye"). Those opposed, nay. (No response). We will take a brief recess.

Council recessed at 7:36 p.m.

Council reconvened at 7:42 p.m.

With the roll called, Members of Council responded: Sarah Cannella "Present"; Jim Wade "Present"; Eric Gilbert "Present"; Mel Clemens "Present"; William Hills "Present"; Lane Beougher "Present"; Ron Stake "Present".

Mr. McCloud: Upon consultation with the City Attorney, he has determined that the prevailing side was one of the three ayes at the Appeal Hearing concerning Mr. Knox's proposal. So, at this point I will entertain a motion to reconsider that vote by a member of the prevailing side which was Mr. Wade. Is there a second? Second by Mr. Stake. There is a motion and a second on the floor. All in favor of the reconsideration, please signify by saying aye. Those opposed, nay. (All voted "Aye" except Mrs. Cannella and Mr. Clemens, who voted "Nay"). Motion carries. I don't know if we need any additional comment. Mr. Knox, you've made your position clear. For those of you who were not here, the vote was based upon a 20 foot green space setback, 20 foot of green space on Main Street, 20 feet immediately south of that, that would be no parking, and 10 foot setback on Hentz Drive. That's what the vote was on. Are there any questions on that? Mr. Gilbert.

Mr. Gilbert: Yes. Mr. Underwood, I wasn't here for the hearing. I didn't know if I might be able to ask questions on this. I'm referencing the Code 1147.05 "Standards for Variances". I guess my question was, it seems in the initial minutes that I read from the hearing that went on that was continued to this evening, that the request was based on economic hardship that could possibly be caused to the business. And I guess my question is, is that a foundation or a basis with which...

Mr. Underwood: I believe in the code it says economic hardship is not to be considered.

Mr. Gilbert: Is not to be considered?

Mr. Underwood: Right.

Mr. Gilbert: Okay. The, also there was a memo that you had written which was helpful in terms of studying 1175 in conjunction with 1179 with the parking, and you had in your memo, you asked that Council remember that just because a parcel of land is in an area zoned for a use classification, it does not mean the size and configuration of the land is appropriate for a particular use.

Mr. Underwood: That's correct.

Mr. Gilbert: Okay. Thank you. Thank you, Mr. McCloud.

Mr. McCloud: Sure. Any other discussion on this item? We, I guess, Mrs. Frazier, just a roll call vote?

Mrs. Frazier: We need a motion to approve the variance.

Mr. McCloud: To approve in the affirmative. Okay. I'll entertain a motion to approve, Mr. Clemens.

Mr. Clemens: Yes. I'd like to say, I don't like the way it's happened because like I said before, the meeting was set for 6:45, period. If you're not here, you're not here. You represent the city. You're elected to be here. If you feel you can't be here, that's fine. But, if Council takes a position like we did and passed the ordinance or turned an ordinance down, I don't think it's fair for you to walk in late and say, I'd like to have my vote, let's redo it. And that's just exactly what's happened to be honest with you. Now that they feel, the people that had the three votes, especially on this issue, feel now they can come up with four or possibly five. So, it's being asked to be redone. I think that, we wonder why we don't have people sitting out here, we wonder why people don't have a lot of faith in what we do, this shows one of them right here and now, is that now, we have changed the process because we've had our Public Hearing. Now we've had Councilmen come in late for their own reason, and I understand, working or whatever it is, and I understand that. But I'm sure that they felt that the other members of Council could handle the situation since they were not here. And I think that's only fair. I know if I was absent, I would expect Council to go along, continue with their path, and I don't think I'd be the one who would come back in and cry that you did something wrong without my being here. And I feel that's just what's happened. I think it's an unfair issue for the people that were here during the Public Hearing. I know it's legal to do this. That's fine. But, I think it sets a poor example and I think it's a poor example for the citizens of Reynoldsburg to see us do it, to be honest with you. And that's just how I feel about it.

Mr. McCloud: Thank you, Mr. Clemens. Mr. Wade, then Mr. Gilbert.

Mr. Wade: Mr. Clemens, with all due respect, this is a democracy, and we're a democratic body, and the decision that is causing this action is one of democracy where the prevailing side is the side that has chosen for a new vote. Not the losing side.

Mr. Clemens: I understand that.

Mr. Wade: And in light of that fact, I think it's important to understand that Mr. Knox was not granted a variance based on a lack of affirmative votes, not, he did not lose the vote. And I think that's important in this case.

Mr. McCloud: Mr. Gilbert, did you want to say something?

Mr. Gilbert: I'd just point out that I was running late this evening. I did not request that the

prevailing side, no disrespect to you Mr. Clemens, I did not request that, and at this point I'm even uncomfortable as far as voting with the reconsideration. But, I just wanted to point out that I did not request that, and respect what Mr. Clemens had said. So, thank you.

Mr. Hills: President McCloud.

Mr. McCloud: Yes, Mr. Hills.

Mr. Hills: Mel, I certainly appreciate what you're saying and I think that issues like this do bring out personal feelings. But, if there would be a flaw or a question about the way anything is handled this evening, the concern should be more with our rules and procedures that are established, and if there's a need to modify those, that can be done. But certainly, I appreciate the City Attorney stepping in and interpreting them, the President of Council taking the time to be sure that we are taking the action appropriately, regardless of what the outcome of the vote is. But certainly, I'd say that if there's a feeling within the majority of Council that these rules and procedures need to be modified, then that can certainly be structured and done so accordingly.

Mr. Wade: One last comment. I think it's important too, to note that the request didn't come from Council. It came from the applicant, and I think that this is an action that guarantees his civil right.

Mr. McCloud: Mr. Clemens.

Mr. Clemens: Just one small thing. I don't care who won or lost. They lost the vote. You had three. You needed four. I just want to make that plain. That's, you could be on the affirmative side, and that's fine, which you were. You got three votes. That did not pass. So, that does mean you lose. Do you understand?

Mr. McCloud: Okay. At this point I'll entertain a motion for approval. So moved by Mr. Stake. Seconded by Mr. Wade. Question or final comment on this item?

With the roll called, members voted: Mrs. Cannella "Nay"; Mr. Wade "Yea"; Mr. Gilbert "Nay"; Mr. Clemens "Nay"; Mr. Hills "Yea"; Mr. Beougher "Yea"; Mr. Stake "Yea". Motion passed.

Mr. McCloud: I have four. Mrs. Frazier?

Mrs. Frazier: Now you need to do the site plan.

Mr. McCloud: Thank you. The second vote will concern the site plan of the property issue. Is there any discussion on this item? I will entertain a motion. Mr. Clemens.

Mr. Clemens: I just hope that we got everything square on the variances and site plan, on what the building's going to look like, where the grass is going to be. I hope all this is followed up on by somebody within the Administration that we're passing. I hope it's got to go before the Design Review Board, I hope somebody's going to make sure the building is going to look halfway decent. I mean, the lighting that comes down instead of up. We're passing something on a

picture, and we're looking at a building out there and he says, I'm going to make that look beautiful. I have no idea whether it's going to be or not. I'm just saying, I hope it's taken care of that we passed.

Mr. McCloud: I agree, Mr. Clemens. I will entertain a motion for approval of the site plan. So moved by Mr. Hills. Second by Mr. Wade.

With the roll called, members voted: Mrs. Cannella "Nay"; Mr. Wade "Yea"; Mr. Gilbert "Nay"; Mr. Clemens "Nay"; Mr. Hills "Yea"; Mr. Beougher "Yea"; Mr. Stake "Yea". Motion passed.

Mr. McCloud: Mr. Knox, you have your variances.

Mr. Knox: Thank you very much.

Mr. McCloud: Thank you.

Communications - - Clerk read report from Clerk of Courts: total monies collected from courts held during May 2003, \$28,419.85. Monies also collected during that period pursuant to Ordinance No. 146-94 and Ordinance No. 104-02 - - \$1,660 for the Computerization Needs Fund and \$50 for the Enforcement and Education Fund.

Reports - - Chief Miller stated there have been several letters recently in the local newspapers regarding residential speed, which is the most common complaint from citizens. She said that this is a national problem. She said that over the course of the last 6 months to a year, they have worked closely with the Street Department; that one of the things Mr. Ward has purchased was a piece of equipment that allows him to record the number of vehicles that are traversing any given roadway, their speed; it records the time that they're there, and whether they're going east to west, or west to east, or north and south. The Chief said the reports they get from this equipment had been used to target speed enforcement. She said in addition to that, Mr. Ward and the Street Department are helping them deploy their speed trailers throughout the city. Over the course of an 8 day period, the equipment was on Kingsley Drive, and over that period they had 9,561 cars go over that equipment. The average was approximately 1,400 cars a day going down that stretch of road, and almost 150 vehicles were exceeding the speed limit at 35 miles an hour or greater. The speed limit is 25 miles an hour. The Chief said she would like to send a message very clearly to all residents that on any residential streets, the maximum speed limit is 25 miles per hour. She said they are asking residents to voluntarily slow down their speed. She said the vast majority of the tickets that they write there, are to people that live in that neighborhood. When they did a study on Slate Ridge, 4% of the cars going down Slate Ridge were traveling at 35 miles per hour or greater. Chief Miller said the police department is very deliberately targeting certain streets on a given day; they are going through the entire city and are starting to see some success. Another issue is the issue of trying to develop some sort of process for signage; that over and over again, they've heard demands for stop signs. She said they are taking a look at what point you start to install some sort of traffic signage in an effort to assist in trying to slow the traffic. Another thing that they've talked about is the development of the subdivisions where long lengths of roadway have been built. She said one of the things they are talking about in terms of any future

development is, do we really want, in a residential neighborhood, that length of roadway without having any kind of a natural four way intersection. She said the issuance of speeding tickets has increased about 20% over this time last year; that they actually wrote a ticket on Haft Drive where a driver was doing more than 60 miles an hour on a 25 mile an hour road.

Safety/Service Director Reichard made a report (1) on behalf of the Mayor about the new drop box the city has for water payments, and city payments of any type, which is located on the island in the parking lot; (2) that she signed the order to proceed for Streetscape; that by the end of the week they should have a construction schedule; there would be a hotline the citizens could call that will be updated every Monday night regarding the Streetscape; (3) that she had received word from ODOT last week that they are going to proceed with the widening of 256 to add lanes by I-70; and (4) they have talked about the fact that they need to take care of all of the landscaping in the Taylor Square area and she is attempting to get the business owners together on the Taylor Square site that backs up to the new Taylor Road, to perhaps get a business association there, and get them involved in some of that landscaping work and taking care of it; and (5) many of the trees in the tree lines are becoming very mature with some of the branches hanging very low. Mrs. Reichard said they are appealing to the citizens to keep those trees trimmed; that they will be sending letters and begin to enforce to get people to cut those bottom branches.

Consent Agenda items:

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

for second reading: ORDINANCE APPROVING FINAL PLAT OF QUARRY PARK SECTION 3 PART 3- -item referred to Service Committee.

for second reading: ORDINANCE APPROVING FINAL PLAT OF TAYLOR WOODS SECTION 9- -item referred to Service Committee.

for second reading: ORDINANCE APPROVING FINAL PLAT OF SUMMIT RIDGE SECTION 5- -item referred to Service Committee.

for second reading: ORDINANCE APPROVING FINAL PLAT OF THE PARK AT WAGGONER SECTION 2 PART 2- -item referred to Service Committee.

Mr. Hills moved approval of actions on the Consent Agenda; Mr. Beougher seconded. With the roll called, members voted: Mrs. Cannella "Yea"; Mr. Wade "Yea"; Mr. Gilbert "Yea"; Mr. Clemens "Yea"; Mr. Hills "Yea"; Mr. Beougher "Yea"; Mr. Stake "Yea". Motion passed; disposition listed above.

ORDINANCE AUTHORIZING CITY AUDITOR TO ESTABLISH "F.E.M.A." (Federal Emergency Management Agency) FUND IN ORDER TO ACCOUNT FOR FEDERAL GRANT MONEY RECEIVED AS A RESULT OF PRESIDENT BUSH HAVING DECLARED FRANKLIN COUNTY A DISASTER ON MARCH 14, 2003; MAKING REIMBURSEMENT TO THE STREET FUND, AND THE GENERAL FUND; AND DECLARING AN EMERGENCY- -Clerk read ordinance by title for the one required reading. Mr. Hills stated that the amount received was \$16,363 of which \$3,763 was transferred to the General Fund and appropriated to the account for maintenance supplies, \$8,537 went to overtime, \$628 went to office supplies, \$900 went to gasoline and \$2,535 went to salt. Mr. Hills moved adoption. Mr. Clemens seconded. With the roll called, members voted: Mrs. Cannella "Yea"; Mr. Wade "Yea"; Mr. Gilbert "Yea"; Mr. Clemens "Yea"; Mr. Hills "Yea"; Mr. Beougher "Yea"; Mr. Stake "Yea".

Motion passed; Ordinance No. 39-03 adopted.

ORDINANCE AUTHORIZING E.M.H.&T. TO PROVIDE SERVICES REGARDING ADA CURB RAMP DATABASE UPDATE FOR WORK PERFORMED IN 2002; SURVEY OF INTERSECTIONS INCLUDED WITHIN SIDEWALK ASSESSMENT PHASES IV AND V; AND DEVELOPMENT OF A DRAFT IMPLEMENTATION PLAN FOR ADA COMPLIANCE WITHIN PUBLIC RIGHT-OF-WAYS; AND APPROPRIATING FUNDS THEREFORE- -Clerk read ordinance by title for the first reading. Item referred to Safety Committee.

ORDINANCE AUTHORIZING E.M.H.&T. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES REGARDING NPDES PHASE II STORM WATER PROGRAM YEAR ONE SERVICES; AND APPROPRIATING FUNDS THEREFORE- -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, 2004- -Clerk read resolution by title for the second reading. Item referred to Finance Committee.

ORDINANCE ACCEPTING TWO UNRECORDED SCENIC/CONSERVATION EASEMENTS (MARONDA HOMES, INC.)- -Clerk read ordinance by title for the third reading. Mr. Gilbert moved adoption. Mrs. Cannella seconded. With the roll called, members voted: Mrs. Cannella "Yea"; Mr. Wade "Yea"; Mr. Gilbert "Yea"; Mr. Clemens "Yea"; Mr. Hills "Yea"; Mr. Beougher "Yea"; Mr. Stake "Yea". Motion passed; Ordinance No. 40-03 adopted.

ORDINANCE RETURNING REMAINING FUNDS TO THE STORM WATER UTILITY FUND FROM THOSE ORIGINALLY APPROPRIATED FOR BROADWYN DRIVE STORM RELIEF SEWER PROJECT (CIP #46) **AND APPROVING PAYMENT OF SERVICES PERFORMED PRIOR TO THE AUDITOR'S CERTIFICATION OF AVAILABILITY OF FUNDS AND DECLARING AN EMERGENCY**- -Clerk read ordinance by title for the third reading. Mr. Hills moved to amend the ordinance as redrafted 6-6-03 which includes emergency language in the title; and also Section 4, which is necessary because it requires this ordinance to be passed within 30 days of its presentation to Council. Mrs. Cannella seconded. All voted "Aye". Motion passed; ordinance amended.

Mr. Hills moved adoption. Mr. Stake seconded. With the roll called, members voted: Mrs. Cannella "Yea"; Mr. Wade "Yea"; Mr. Gilbert "Yea"; Mr. Clemens "Yea"; Mr. Hills "Yea"; Mr. Beougher "Yea"; Mr. Stake "Yea". Motion passed; Ordinance 41-03 adopted.

The meeting was adjourned at 8:17 p.m.

Bradley L. McCloud, President of Council

Nancy C. Frazier, Clerk of Council