

MINUTES REGULAR COUNCIL MEETING
REYNOLDSBURG CITY COUNCIL
JANUARY 22, 2007

President of Council William L. Hills called the meeting to order at 7:33 p.m.

Members of Council present: Brett Baxter, Doug Joseph, Mel Clemens, Antoinette Newman, Donna Shirey, Ron Stake, Preston Stearns.

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

Minutes of the regular Council meeting held January 9, 2007 were approved without objection. Minutes of the special Council meeting held January 16, 2007 were approved without objection.

Mr. Hills: That moves us to item 6, approval of tonight's agenda. I have no additions or deletions. Does anyone else? Mr. Baxter.

Mr. Baxter: Yes, President Hills. I would like to extend a motion to return to committee, item number 12, the sexual legislation, for additional considerations. The reason I ask for that to happen is, I would like to remove the residential restriction from that piece of legislation, and in its place, put into that legislation, that registered sex offenders cannot enter into the premises that are listed on that legislation. They would not be allowed on that property. So I ask that Council consider that and allow that motion to be passed so we can discuss it in committee next week.

Mr. Hills: Mr. Baxter, would that not be more appropriate a motion as we get to that agenda item that's set for third reading, to discuss it at that time?

Mr. Baxter: In the past President Hills, we've done it in both places. At the time of agenda to have it return to committee, and at the time of discussing the piece of legislation. So that's why I chose here.

Mr. Hills: Mr. Baxter, you're making a motion to...

Mr. Baxter: Refer to committee, the item number 12.

Mr. Hills: You're blinking red light. Is that taping? Is that what you're doing by any chance?

Mr. Baxter: I don't know.

Mr. Hills: Just out of curiosity. We have enough tapes. I didn't know you had to do it, too.

Mr. Baxter: It appears to be something from Channel 10, sir.

Mr. Hills: Oh. It's not your taping?

Mr. Baxter: No sir, it's not.

Mr. Hills: Now that's a different thought. I hadn't thought about it. But I'm trying to think as to why you would do it and want to make the motion here. We have an item set for third reading. Motions to amend that item certainly are subject to discussion at that time. My preference is, I think it's more appropriate to be done at the time the item's up for third reading.

Mr. Baxter: I understand, but I'm not looking to amend it this evening, sir. I'm looking to send it back to committee, and then have it amended.

Mr. Hills: You're saying just to refer it back to committee?

Mr. Baxter: That's my request, sir.

Mr. Hills: Mr. Clemens, do you have a statement that you want to make?

Mr. Clemens: You know, we've kicked this around and jockeyed it around, and we've done everything we can to delay it. I'm not delaying, and defending sex offenders on any count. Now this has been kicked around for 14, 16 weeks. You come up with something different every week. This is something you should have brought up two weeks ago, when it was in your committee, or a week ago. I get tired of hearing about it. This ordinance has been approved by our City Attorney on what he feels we can handle as far as prosecution is concerned, and as far as the city's concerned. I don't know why you don't want it to go to a vote. Every time you send it to committee you come up with something different. Now, how many votes does it take to put it back, take it off the agenda and put it back.

Mr. Hills: It would take 4 votes to remove it and send it back. It would be a motion just to not read it and send it back to committee. I'm a little surprised. I didn't realize it was coming up either. So there hasn't been any discussion on it to speak of. Mr. Stake.

Mr. Stake: President Hills, I agree with Mr. Clemens. The Chairman had plenty of time to, and he did offer various ways to kill this legislation, stall this legislation. I think we need to go forward with this and I think we need to vote on it tonight. If he would like to offer additional things down the road, I'd be happy to consider those. But the legislation as written, I'm happy with, and I want to vote on it tonight.

Mr. Baxter: President Hills, if I could respond?

Mr. Hills: Mr. Baxter.

Mr. Baxter: Thank you, President Hills. My intent here is not to kill this legislation nor delay it. State House took what, a year to get through theirs? I don't see there's any rush to judgement here. I would too, like these other two Council members, would like to see sexual legislation passed in the City of Reynoldsburg. But I would like to see it to be something that's responsible. And anything other than giving it its full attention is irresponsible. Thank you, sir.

Mr. Hills: Mr. Clemens.

Mr. Clemens: You know, I think for 16 weeks, 14, 16 where we have gave it quite a bit of consideration. We've been up and down on it. We've had everything brought up from signs to stickers. You know, we're not the only community that's done this. And we've gave it a lot of thought. We've got to commit. Pataskala passed theirs in two weeks. They're responsible to their community; to the people that put them in office to do something that would help as far as sexual offenders are concerned. We've all agreed that this does not complete the situation that we would like to have happen. This is a beginning. It can be amended as it goes along. We discussed that. The point is to get it in action so that Mr. Hood can take action on the ones that are here now, and we can process the ordinance as it goes. If something comes up, you have other suggestions, then we can amend this as time goes by. We're not, just because we pass it doesn't mean that we can't amend it and make it stronger. The Mayor is supporting it. He feels it is a good ordinance. I would like to vote on it. I mean, and I think the public would like to see us vote on it. I think that's why we're here. I don't think that this is something, like you say, you'd like to spend more time on it, you don't want to rush it through. This is not being rushed through. Granted buddy, I guarantee you, this is not a rush. This is longer than any ordinance I've sat on City Council and seen worked on. So I think that we had people here that have spoke on it. We haven't had anybody speak against it. I know that we all have our different opinions on it and I think we should support some of those as time passes and as time comes on. But I think this is something to get started. It's important to our community. If you watch TV and if you read the papers, you see what's happening, and I think it's important to protect our children and our families. And I think this is something that we should move on this evening. I came here with the idea that I was going to vote on it this evening. And I still intend to vote on it this evening.

Mr. Hills: Mrs. Newman.

Mrs. Newman: Yes. Thank you, Mr. Hills. I agree basically with Mr. Clemens. I would like to see some legislation passed so we can get an effective matter to protect our children as soon as possible. We can always amend legislation later as Mr. Clemens said, and add the additional language that you wanted. But I think it's important that we go ahead and get it made effective. That's all I have to say.

Mr. Hills: Mr. Baxter.

Mr. Baxter: Just one last comment and I think we should move forward. And I do appreciate your comments, Councilman Clemens, and I do understand how important this is to you. One of the things that concerns me is, I too saw this news report this weekend on Channel 4 stating that two people were being looked for by the Sheriff's Department. They gave their pictures and said that they were sexual offenders. And they hadn't registered yet. And it's this type of legislation that drives them underground. I do not want to be part of the problem. So therefore, I would like to try to take the time to make sure that we put in effective legislation that guarantees us an opportunity to know where they're at and to make sure that we protect our children at the same time. Time is an element. I understand that. And I don't see any hurry.

Mr. Hills: The only comment I'd like to make, if I could, to respond to that, this Council has not, nor will it ever, designate an individual to be a sexual offender. That is done by the court system. That is not done by the press. It is not done by this legislative body. How we deal with individuals who have been designated sexual offenders through the court system, the state has said

already, you cannot live within 1,000 feet of schools. Many cities have expanded upon that and that was what the intent of this legislation is. Much of the argument and discussion I've heard is, there's better ways to do it. There's better ways to write many laws. And the General Assembly of Ohio is often working on rewriting, and tweaking, and improving things that are out there. But when it comes to the designation of a sexual offender, it will not be done by the legislative body. It'll be done by the judicial branch of government. Mrs. Newman.

Mrs. Newman: Yes. I just feel that we do need to get something passed. And we're never going to be able to assure complete, 100% safety for our children. And I get the impression that that's what you're trying to do with this legislation, and I admire your effort, but really, that can't be done. And I think a good starting place is to pass this legislation that we have before us tonight.

Mr. Hills: Any questions or comments? (No response). Mr. Baxter, what motion is it you're making?

Mr. Baxter: I move that we return to committee, this piece of legislation for further consideration - Item #12.

Mr. Hills: You are moving, at approval of agenda, that you want to remove item 12 for third reading?

Mr. Baxter: Correct.

Mr. Hills: Ordinance prohibiting sexually oriented offenders, you want to remove it from the reading item and send it back to committee?

Mr. Baxter: Yes, sir.

Mr. Hills: And that is the motion you're making?

Mr. Baxter: Correct.

Mr. Hills: Is there a second on that motion? Second by Mr. Joseph. Discussions on that motion? (No response). I will, before I call the roll, I will try to take a second, I think I have somewhat already. It is in my mind, as I broke this tie to bring it out of committee for a vote, which was my role on a tie vote within committee, it came to Council for the purpose of vote. I won't have the opportunity to vote on this motion because I expect we have all 7 people here. But I'm going to encourage that, as I broke the tie coming out of committee, I certainly would encourage that it go for vote this evening. Many people have made many statements. And all minds at this table that I've heard, and are aware of, and who I've talked with, are very open to be able to improve upon what is out here now. Some of those discussions have been had. Some of them couldn't be finalized. That's why what is before us tonight, assuming we get to item 12, and if we get to item 12, is the ordinance as drafted by our City Attorney that he felt was defensible. But there is a motion on the table to amend the agenda to send item 12 back. There is a second. Is there any other comments? (No response). Mrs. Frazier, would you please call the roll on that motion? (With the roll called, members voted Mr. Baxter "Yea"; Mr. Joseph "Yea"; Mr. Clemens "Nay";

Mrs. Newman “Nay”; Mrs. Shirey “Yea”; Mr. Stake “Nay”; Mr. Stearns “Nay”). There are only 3 “Aye’s”, 4 “Nay’s” and the motion is denied. The item will go forward tonight. Is there anyone else who has a discussion on tonight’s agenda? (No response).

Reports- -Mr. Hills stated that Council would be interested in letters of interest to serve on the Income Tax Board; term to be for three years. He said letters of interest should be sent to Mrs. Frazier before February 9, 2007.

Mr. Hills said 5 members would be appointed to the Charter Review Commission; and that letters of interest to serve on the Charter Review Commission should go to Mrs. Frazier by February 9, 2007. Designation of one’s political party should be included, because there was a requirement that no more than two members of the same party may serve on the commission.

ORDINANCE AUTHORIZING 2% MERIT INCREASE FOR THE YEAR 2007, FOR ELIGIBLE EMPLOYEES COVERED BY CHAPTER 160, AND DECLARING AN EMERGENCY- -Clerk read ordinance by title for the one required reading. Mr. Stake moved adoption. Mrs. Shirey seconded. With the roll called, members voted: Mr. Baxter “Yea”; Mr. Joseph “Yea”; Mr. Clemens “Yea”; Mrs. Newman “Yea”; Mrs. Shirey “Yea”; Mr. Stake “Yea”; Mr. Stearns “Yea”. Motion passed; Ordinance No. 4-07 adopted.

ORDINANCE TO APPROVE PAYMENT OF SERVICES PERFORMED PRIOR TO THE AUDITOR’S CERTIFICATION OF AVAILABILITY OF FUNDS AND DECLARING AN EMERGENCY (City Hall Parking Lot)- -Clerk read ordinance by title for the one required reading. Mr. Stake moved adoption. Mr. Stearns seconded. With the roll called, members voted: Mr. Baxter “Yea”; Mr. Joseph “Yea”; Mr. Clemens “Yea”; Mrs. Newman “Yea”; Mrs. Shirey “Yea”; Mr. Stake “Yea”; Mr. Stearns “Yea”. Motion passed; Ordinance No. 5-07 adopted.

ORDINANCE PROHIBITING SEXUALLY ORIENTED OFFENDER FROM ESTABLISHING RESIDENCE NEAR SCHOOL, LICENSED DAYCARE CENTER, LIBRARY, PUBLICLY OWNED PLAYGROUND OR PARK LAND, THE REYNOLDSBURG SWIM CLUB, AND ANY PRIVATELY OWNED LAND USED AS A YOUTH SPORTS FACILITY- -Clerk read ordinance by title for the third reading. Mr. Baxter moved adoption. Mr. Clemens seconded. Mr. Joseph moved to amend the ordinance.

Mr. Joseph: There’s been a lot of discussion over this legislation for the past few weeks. And my biggest issue with it has been that we are basically looking to protect certain parts of the city over other parts of the city. A number of people that I’ve talked to are very concerned about how sex offenders are going to be moving around the city should this legislation pass tonight. Therefore, I’m proposing that we move beyond the barriers that have been stipulated in the draft and go to a citywide ban. And I’m doing that two different ways. I’ll pass out my amendment. First of all, we’re going to move to amend this amendment from 1,000 foot radius to 2500 feet. Secondly, we’re going to add bus stops to the list of areas that would have, areas that would be banned for sex offenders to reside in. Much has been said about, you know, we need to protect schools, we need to protect licensed daycare centers, libraries, parks. These are all locations that are largely supervised by adults much of the time. School bus stops are usually where there are no adults. In my opinion, probably a much more likely area for children to be preyed on than any place else on this list. I think it’s important to include this in the legislation.

Same thing with the 2500 feet, I think we need to have adequate coverage for the entire city. This ordinance, as drafted, does not accomplish that. Additionally, much has been said that, oh well, we can't go to those limits because it might be unconstitutional. Anything this Council passes could be unconstitutional. When the McCain-Feingold legislation passed in Washington, many people thought it would be ruled unconstitutional, because it restricted free speech. It was upheld. What the courts have shown is, that they are very unpredictable. Plus, there's severability in the ordinance, meaning that anything that's not upheld, the rest of the ordinance can be upheld. Therefore, I feel we need to go beyond this idea of just targeting one part of the city over another. We've been doing that too much in this city. We did it with the church issue where we pitted citizen against citizen. We did it with, many believe, with the bond issue for schools with the second high school. I think we need to start looking as a city and not pitting one part of the city against another. Therefore, my amendment would cover the entire city based on the additions that I've included. And you can see from what I've passed out, that the new text would be bolded and italicized. That's the new language. And that which I'm taking out has been struck out. Thank you, Mr. President.

Mr. Hills: Okay, if I could, I guess a summation on that, and you have a motion to amend, to add in school bus stops, to delete 1,000 feet, changing it to 2500 feet?

Mr. Joseph: Correct.

Mr. Hills: And all references through there, and school bus. So I think that's in effect of your change.

Mr. Joseph: Yes. I'm adding school bus stops to all zones, and then changing the foot radius from 1,000 to 2500.

Mr. Hills: Okay. First of all, I will ask, is there a second on that amendment? Second by Mr. Baxter. Questions or comments on the amendments? Mr. Stake.

Mr. Stake: President Hills, we've been down this road before. Our City Attorney has advised us that that would not pass constitutional muster. I see no reason for us to get involved in litigation with this amendment. If I thought it would pass constitutional muster, and I thought we could get away with it, I'd be all for it. If our City Attorney advised us to do this, I'd be all for it. But I think that the ordinance, as written, goes as far as we can go. And I would prefer to stick with the ordinance we have before us.

Mr. Hills: Mr. Clemens.

Mr. Clemens: You know, I've been down this road before and I don't understand why we want to pit one district against another district. I can't help it if I've got a couple of schools in my district, daycare. I can't help that. That would happen in the other sections of town just as much. I don't think it's fair to say, 'Boy, you're doing this for one district, but you're hurting my district'. I think it's ridiculous, and I think it's a ridiculous statement. And I think this is why it's been brought up. To ban the whole city, I think would be unconstitutional. We're just setting ourselves up for lawsuits. I have to refer to our City Attorney. He knows the law. We're sitting here trying to act like we know the law and what's constitutional and what's not. I don't think those

are fair statements. I prefer to put my judgment under our own City Attorney and the statements he's made before this City Council on what he feels is acceptable, and what he feels is not acceptable; and what he feels he can defend, and what he feels he can't defend as far as going to court, or as far as being sued for something that's unconstitutional and causing all kind of problems. That's all I've got to say about it. This is not new material and new stuff. It's stuff that we've went over in committee hearings. So I would be in favor of letting it stand the way it is.

Mr. Hills: Mr. Joseph.

Mr. Joseph: Mr. President, I need to respond to both Mr. Stake and Mr. Clemens. Number one, as I had said before, that this is likely to be litigated regardless of what's in it. I believe our City Attorney has said that's a strong possibility. There is severability in the ordinance. If anything in this ordinance is found unconstitutional, the rest of it could stand. So that's not going to impact that at all.

And regarding the idea we're pitting one part of the city against another, well, we're not doing anything that hasn't already been tried elsewhere. Johnstown, a city that's, well we're about 90% larger than the Village of Johnstown. We're 35,000 people. They're 3500. They passed a 2500 foot barrier in their village. So I think we're, since we're always thinking about what other cities are doing any way, well, why don't we do what Johnstown has done? So again, I think this is a very sound amendment. I think that it covers the city. And regarding the litigation issue, we have severability in the ordinance and we're covered either way.

Mr. Hills: Mr. Stake.

Mr. Stake: President Hills, I would just like to add, that on the bus stops, those change from time to time. In fact, I think they change rapidly in some situations. I don't know who's going to keep up with where the bus stops are and drawing the buffer around those many, many times through the course of a year.

Mr. Hills: Any other comments? Mr. Clemens.

Mr. Clemens: We do have to have enforcement. As far as what other cities do, why don't we do like Whitehall does? Whitehall didn't do anything. So what are you talking about doing what other cities are doing? This is a principle that we have brought up. Other cities have followed our routine. As Pataskala has. Pickerington has. So I think that we're setting a good example, and I think what we have, the ordinance that is drafted by our City Attorney, the one that was requested at the beginning, I think it's the ordinance that we should follow. It's a good ordinance. I don't even know whether it needs any amendments. But I'm willing to listen as time goes by. But I think it's time to get moving and stop this arguing back and forth, and changing, trying to change every time we sit down at the table. I haven't tried to change a thing. I know Mr. Stake hasn't tried to change a thing. This is the ordinance that we propose and this is the ordinance we'd like to see approved.

Mr. Hills: Any other questions before we vote on this motion? Mr. Baxter.

Mr. Baxter: The only thing I would say here, Councilman Clemens, and again, I do respect your decision and your opinions, but I do think it's up to every Council member to express their opinion. And if they believe that they can make something better, they should be able to propose it. And to belittle them, or make fun of, or to try to knock down a Councilman because he is trying to do just that Councilman Clemens, I don't think it's fair.

Mr. Hills: Okay. We're going to stop before that starts. I will not let this, and I don't think that statement was, and I'm going to summarize what's been said. What we're discussing now is this motion to amend by Mr. Joseph and seconded by Mr. Baxter, has been discussed in committee meetings. The 2500 feet has been discussed; the bus stops have been discussed; neither of which were recommended by our Law Director to come forward in that way. Now, I think that we will cease with our further discussions on this amendment. There is an amendment on the floor. Seconded as to amend the school bus stop and changing 1,000 to 2500 feet. Second by Mr. Baxter.

Mr. Hills asked that the roll be called. With the roll called, members voted: Mr. Baxter "Yea"; Mr. Joseph "Yea"; Mr. Clemens "Nay"; Mrs. Newman "Nay"; Mrs. Shirey "Yea"; Mr. Stake "Nay"; Mr. Stearns "Nay". Motion failed; ordinance not amended.

Mr. Hills: We do have a motion on the floor for acceptance of the original ordinance, with second by Mr. Clemens, as the one that was drafted by our City Attorney. Questions or comments on that motion? Mr. Stake.

Mr. Stake: Thank you, President Hills. I wasn't sure we were going to get here, but I'm glad we did. President Hills, Members of Council, Mayor McPherson, ladies and gentlemen, we're here tonight to take the third and final vote regulating where convicted sex offenders may reside in Reynoldsburg. I've heard some Council members comment that this doesn't fix the problem of protecting children from sexual predators. The intent of this legislation never was to fix the problem of protecting children from sexual predators. The intent was to establish requirements providing for an additional level of protection of the health and lives of our children in this community from sexual predators. I'm convinced by the following research that our children need this additional protection from sexual predators. The U.S. Department of Justice, Bureau of Justice Statistics, in a report titled "Recidivism Of Sex Offenders Released From Prison in 1994" found that 46% of rapists and 41.5% of sexual assaulters were returned to prison within 3 years of their release. 39.4% of child molesters, and 49.9% of statutory rapists were re-arrested within 3 years of their release. And these statistics reflect those only who have left prison for the first time. In other words, those released from prison for the second time or more times were not counted. The State of Ohio Department of Rehabilitation and Correction in the report titled "Ten Year Recidivism Followup of 1989 Sex Offender Releases" stated that rapists return to prison at a rate of 56.6%. Child molesters return to the rate of 42.4%. Almost 50% of sex offender victims are under the age of 13. Another 22% were between the ages of 13 and 17. Incest child molesters were least likely to return to prison at a rate of 13.2%. Of all sex offenders who are returned to prison, 2/3 did so within 3 years, that report found. Those studies I've outlined contain scientific research regarding the recidivism rate of sex offenders. Neither study accounts for those who repeat the offense, but are never caught or prosecuted. A sex crime involving a child is particularly heinous. This research clearly shows that our children need the extra level of

protection against sex offenders. Reynoldsburg City Attorney Jed Hood, has provided us with an ordinance he believes stays within the boundaries of the United States Constitution. We have discussed other proposals that our City Attorney believed would violate the Constitution, which we talked about earlier here tonight. We've also discussed narrowing the requirements of certain types of sex offenders that our City Attorney has said would be costly and time consuming. I don't want to support either one of those situations. The ordinance before you is reasonable, common sense legislation. It stays within the confines of the Constitution. It provides additional level of protection from sexual predators for our children. I'd like to thank Councilman Clemens for championing this legislation with me. I also would like to thank Councilwoman Newman and Council President Hills for joining with me in voting to move this legislation out of the Safety Committee and on for its third and final reading in a full vote of Council. I also would like to add Councilman Stearns in that thank you for helping get this legislation this far tonight. Council members, your vote tonight in favor of this ordinance will help further protect our children. Your vote against this ordinance will give the convicted sexual predator more opportunity to commit the crime. Thank you, President Hills.

Mr. Hills: Are there any other comments prior to vote? Mr. Baxter.

Mr. Baxter: Thank you, President Hills. And I, like Councilman Stake, am looking forward to being able to pass a piece of legislation that would protect our children. Specifically, to be able to identify where sexual offenders are. Preferably, I wouldn't like them in my city. I don't think anybody wants them in any of their cities. But there's a problem out there. We didn't create this problem. We have to deal with it though. They have to live somewhere. And not in my backyard mentality is what I'm hearing tonight. Unfortunately, we have to solve this problem. I think preventing them from being inside the school would be a great idea. We've already heard once already in the last year where a gentleman walked into a school and there wasn't a darn thing anybody could do about it. A child just made the national news and found out he was taken for 4 days. He was taken from a bus stop. And was found with a child that was there for 4 years. Was this a residence issue? Who knows. My concern with this legislation isn't that we don't want it to pass. And as you've been made to believe that we're against the legislation. I'm not against legislation. I definitely want to protect our children. But I want to do it in the right way. I don't want to make the problem worse. And when I say making the problem worse, if we drive them out of our city, and out of every city of this nation, what is going to happen is they're not going to register and we're not going to know where they're at. And how can we protect them then? Thank you, President Hills.

Mr. Hills: Any other comments prior to vote? (No response). There is a motion by Mr. Baxter; a second by Mr. Clemens for the ordinance as originally proposed, and on our agenda as item 12. With the roll called, members voted: Mr. Baxter "Nay"; Mr. Joseph "Nay"; Mr. Clemens

"Yea"; Mrs. Newman "Yea"; Mrs. Shirey "Nay"; Mr. Stake "Aye"; Mr. Stearns "Aye". Motion passed; Ordinance No. 6-07 adopted.

Meeting adjourned at 8:05 p.m.

William L. Hills, President of Council

Nancy C. Frazier, Clerk of Council
(Minutes compiled: Ass't. Clerk of Council Susie Lyday)