

REGULAR SESSION

June 8, 2017

The Council of the City of Chardon met in Regular Session Thursday, June 8, 2017 at 6:30 P.M. in Council Chambers of the Chardon Municipal Center.

Nancy McArthur, President of Council presiding.

The meeting opened with the pledge of allegiance and roll call.

Members of Council present: Andrew Blackley, Deborah Chuha, Chris Grau, David Lelko, John Mallen, Nancy McArthur, Jeffrey Smock.

Members of Council absent: none.

Others present: City Manager Randy Sharpe, Finance Director Mate Rogonjic, Clerk of Council Amy Day, Law Director James Gillette, Police Chief Scott Niehus, City Engineer Doug Courtney, Planning and Zoning Administrator Steve Yaney, Public Service Director Paul Hornyak, Park and Recreation Director Joe Rodriguez, Amy Patterson, Bill Hess, Joe Koziol, Matt Rolf, Mary Glauser, Ken Ovark, Jeff Fisher, Heather Kilfoyle, Mary Ellen Sweet, Stacia Clawson, Jonathan Schneider, Michaelanne Cyvas, Diane Cyvas.

Mayor McArthur asked for a moment of silence in remembrance of three teens: Zachary St. Jean, Jackson Condon, and Dominic Ricci who passed away in recent car accidents.

Mayor McArthur asked that the surviving victim, Sean Gates, be kept in people's thoughts and prayers.

**APPROVAL OF MINUTES**

Mr. Smock moved and Mrs. Chuha seconded to approve the minutes of the May 11, 2017 Public Hearing and Regular Session as presented. Upon roll call vote the motion passed unanimously.

Mr. Smock moved and Mr. Mallen seconded to remove the Resolutions of Appreciation for Jeff Fisher and Jim Fetheroff from the table. Upon roll call vote the motion passed unanimously.

**RESOLUTION NO. 6-17**

A RESOLUTION OF APPRECIATION FOR JEFF FISHER was read for the first time in its entirety.

Mr. Mallen moved and Mr. Grau seconded the rules be suspended and the Resolution be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Resolution No. 6-17 was then read for the second and third time by title only.

Mr. Smock moved and Mr. Blackley seconded for the adoption of Resolution No. 6-17.

Upon roll call vote the motion passed unanimously.

Recreation Director, Joe Rodriguez, spoke about the efforts of Jim Fetheroff and Jeff Fisher, in developing the Chardon Girls' Basketball Program.

**RESOLUTION NO. 7-17**

A RESOLUTION OF APPRECIATION FOR JIM FETHEROFF was read for the first time in its entirety.

Mr. Grau moved and Mr. Smock seconded the rules be suspended and the Resolution be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Resolution No. 7-17 was then read for the second and third time by title only.

Mrs. Chuha moved and Mr. Blackley seconded for the adoption of Resolution No. 7-17. Upon roll call vote the motion passed unanimously.

**MANAGER'S REPORT**

Mr. Sharpe reported that the City was given a framed photograph of the gazebo as a gift by a local photographer, Nora Stone. He stated that Council needs to accept the gift in accordance with the City's gift acceptance policy.

Mrs. Chuha moved and Mr. Grau seconded to accept the framed photograph from Nora Stone. Upon roll call vote the motion passed unanimously.

Mr. Sharpe reported that the 2016 Annual Report has been completed which identifies key initiatives, projects, programs, and events that occurred in 2016.

Mr. Sharpe reported that the City has submitted a pre-application to the Ohio Public Works Commission for the South Hambden Street Improvements Project which is on the unfunded list of the 2017-2021 Capital Improvement Plan.

Mr. Sharpe asked Chief Niehus to expand on the newsletter article pertaining to parking on the grass.

Chief Niehus explained that parking is not permitted on the grass; however, if there is a need for special event parking, the public is asked to notify the Police Department in advance of the event.

Mr. Sharpe reported on the status of public works projects.

Mayor McArthur reported on her and the City Manager's attendance at the Empowering Local Leadership Conference held in Washington, DC on May 18 and 19.

**PLANNING COMMISSION REPORT**

Mr. Blackley reported that Planning Commission met and approved a variance to permit the construction of a garage and addition at 106 Moffet Avenue.

Mr. Blackley reported that Planning Commission approved the permitted use of a well and septic system, and driveway and sidewalk variances for property at 505 Center Street.

**COUNCIL COMMITTEE REPORTS**

**Service Committee**

Mr. Mallen reported that the Service Committee met and reviewed a proposed Announcement of Decision and Ordinance that would waive the sidewalk installation on Battles Court.

Mr. Mallen reported that the Committee also discussed the need for an assessment of the buildings of Old Village Hall and the Fire Department.

#### **Park and Recreation Committee**

Mrs. Chuha reported on summer recreation programs and events. She added that the concession stand at Mel Harder Park is open during baseball games.

#### **HEARING OF PERSONS BEFORE COUNCIL**

THOSE PERSONS ON THE AGENDA -

Johnathan Schneider, representing Chardon Area Chamber of Commerce, requested permission to allow food trucks and an ice cream truck at the Chamber Car Show on July 9<sup>th</sup>.

Mayor McArthur asked about past vendors at the Chamber Car Show.

Mr. Schneider stated that in 2016, permission was given to allow other businesses to provide giveaways at the event and they have also had food sales provided by a caterer in the past.

Mr. Lelko asked how many trucks are desired for the event.

Mr. Schneider stated that they would prefer not to limit the number of trucks; however, he did not anticipate more than 3 trucks.

Mr. Lelko expressed concern about the location for them to setup.

Mrs. Chuha asked if they will be permitted to park anywhere.

Mr. Schneider stated that they have analyzed the parking spots around the Square and are able to accommodate the trucks.

Mr. Grau asked if Council can develop a policy for food trucks at events.

Mayor McArthur stated that it is a trend and thinks that a policy should be adopted for staff to use rather than having Council address each request.

Council directed the Legislative Committee to review the establishment of a policy.

Mr. Blackley asked about allowing food trucks to sell on the Square at any time.

Mr. Gillette stated that the City's policy is that the City prohibits any money making enterprise unless it is connected to a charitable organization or event.

Mr. Blackley moved and Mrs. Chuha seconded to allow the proposed ice cream trunk on the Square for the Chamber Car Show on July 9<sup>th</sup>.

Mayor McArthur asked about their need for additional food trucks.

Mr. Schneider stated that for 2017, the ice cream truck should be sufficient.

Upon roll call vote the motion passed unanimously.

Mary Glauser, Chardon Tomorrow Executive Director, reported on the organization's recent activities and a parking project that will analyze resources for businesses and parking trends around the Square.

Mr. Sharpe inquired about Chardon Tomorrow's intention to use the Heritage House for the Second Saturday's events.

Ms. Glauser stated that Chardon Tomorrow can be flexible on its need to use the Heritage House and not all events will require its use. However, she asked that Chardon Tomorrow be permitted to use the Heritage House for their July event, Dog Days, on July 8<sup>th</sup> at no cost.

Mr. Grau moved and Mr. Mallen seconded to waive the Heritage House fees for Dogs Days on July 8, 2017. Upon roll call vote the motion passed unanimously.

#### GENERAL PUBLIC

Ken Ovarik, 336 Irma Dr., suggested the City require permits to install underground fencing so that installers are aware of property line locations.

Mr. Hornyak stated that a surveyor would be needed to determine property line locations which would be cost prohibitive. Therefore, he did not think that a permitting process would be feasible.

Michaelanne Cyvas, 11270 Hosford Rd., requested Council's support in signing a petition for a traffic light to be installed at SR 44 and Hosford Road. She expressed that she believes that a traffic light at that location could prevent traffic accidents from happening.

Mr. Gillette stated that if a member of Council wants to sign the petition as a citizen of the City of Chardon, they may do so. However, if Council as a whole wishes to take action, it should be done by resolution. He added that he would like to look into the authority of Council before preparing a resolution since the intersection is not located within the City limits.

Mr. Blackley reviewed the steps which the County and State would need to take before installing a traffic signal but stated that he would support the petition as a private individual.

Diane Cyvas, 11270 Hosford Rd., stated that she is looking for support to gather the statistics to take to ODOT.

Mr. Courtney explained what is involved in a warrant analysis of the intersection and stated that he would support the efforts of the Cyvases in getting that initiated.

Matthew Rolf, 127 Ferris Ave., addressed Council to request their support in implementing policies for "complete streets" that have two goals including: safely accommodating multiple users and slowing storm water runoff.

Bill Hess, 115 North Street, questioned how Council members can be concerned about pedestrian safety if they are considering removing sidewalks on Battles Court.

**OLD BUSINESS** - none.

#### **NEW BUSINESS**

A Public Hearing was set for July 13, 2017 at 6:20 PM to allow the public to comment regarding the City's proposed budget for fiscal year 2018.

**Regarding an Announcement of Decision regarding a WAIVER OF MUNICIPAL REQUIREMENT TO REQUIRE THE CONSTRUCTION OF SIDEWALKS ON BATTLES COURT AS AUTHORIZED UNDER §905.51(b) C.O.,** Mr. Gillette stated that petitioners have requested sidewalks not be required on Battles Court and by adopting the Announcement of Decision, Council formally authorizes that sidewalks are not required on that street. The Announcement of Decision also requires that the petition include a statement that the

petitioners were requesting that the City Engineer make the determination that pedestrian safety would not be significantly reduced by the elimination of sidewalks. Since the City Engineer has indicated that he cannot make that finding in this or any similar situation, a follow-up letter was sent to the petitioners and indicated that the provision was included in the petition and if they would want to waive this, they should send him a waiver of this requirement.

Mayor McArthur asked if all property owners must sign the waiver.

Mr. Gillette stated that all property owners must sign the waiver in order for the Announcement of Decision to become effective.

Mayor McArthur asked what the process would be if future residents on Battles Court desired sidewalks on Battles Court.

Mr. Gillette stated that if residents desire sidewalks in the future, they would petition the City for the improvement.

Mrs. Chuha asked where it states that the property owners are responsible for restoration of the removed sidewalk.

Mr. Gillette stated that this requirement while not in the Announcement of Decision, is provided for in the petition that the homeowners signed.

Mr. Lelko asked if the City could require sidewalks on Battles Court at a later time.

Mr. Gillette stated that a future Council could require sidewalks in the future.

Mr. Lelko asked how many properties have deteriorated sidewalk on Battles Court.

Mr. Hornyak stated that only two properties have deteriorated sidewalk. The other properties do not have any detectable sidewalk.

Mr. Mallen asked about the City's liability in the event of an accident on Battles Court.

Mr. Gillette stated that if a motor vehicle hits a pedestrian and the driver is at fault, the driver would be responsible for monetary damages to the pedestrian. The decision to remove sidewalk is a policy decision by Council.

Mr. Blackley moved and Mr. Mallen seconded to approve the Announcement of Decision.

Results of the roll call vote:

Blackley: Yes  
Chuha: No  
Grau: Yes  
Lelko: Yes  
Mallen: Yes  
McArthur: No  
Smock: No

Motion passed.

Mr. Smock moved and Mr. Blackley seconded to amend the agenda to add item #11C to consider any objections to the issuance of a new D2 and D3 liquor permit for Element 41, 141 Main Street.

Mrs. Day stated that the City recently received notice that a new establishment has applied for the issuance of new D2 and D3 liquor permits and the Ohio Department of Commerce has requested notification if Council has any objections.

No member of Council had any objections to the issuance of the new liquor permits.

## **LEGISLATION**

### **ORDINANCE NO. 2972**

AN ORDINANCE AMENDING C.O. §905.51 INSTALLATION [OF SIDEWALKS] REQUIRED was read for the first time by title only.

Mr. Lelko moved and Mr. Grau seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2972 was then read for the second and third time by title only.

Mr. Blackley moved and Mrs. Chuha seconded for the adoption of Ordinance No. 2972.

Mrs. Chuha asked if the legislation would take effect immediately regardless of any developments that have begun.

Mr. Gillette stated that the ordinance takes effect in 30 days and the only time there would be an issue on this legislation is if other homeowners petitioned the City for the removal of sidewalks on the street where they live. He noted that the legislation would not affect Battles Court.

Mr. Smock asked why the legislation would not pertain to Battles Court.

Mr. Gillette stated that in the Announcement of Decision, the City Engineer's finding was specifically waived.

Mr. Lelko stated that the legislation removes the requirement for the City Engineer's recommendation that pedestrian safety will not be significantly reduced.

Mr. Gillette stated that the legislation also removes the requirement that Council must determine that pedestrian safety will not be significantly reduced.

Mr. Lelko noted that it was determined that Battles Ct., Carson Dr. and Daniels Dr. were the only streets that could potentially meet the criteria for the removal of sidewalks.

Upon roll call vote the motion passed unanimously.

### **ORDINANCE NO. 2973**

AN ORDINANCE AMENDING APPROPRIATIONS IN THE CITY OF CHARDON TREASURY FOR 2017 AND DECLARING AN EMERGENCY was read for the first time by title only.

Mrs. Chuha moved and Mr. Smock seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2973 was then read for the second and third time by title only.

Mr. Smock moved and Mrs. Chuha seconded for the adoption of Ordinance No. 2973.

Mr. Rogonjic reviewed the proposed amendments to the appropriations that are being requested.

Upon roll call vote the motion passed unanimously.

**REVIEW OF EXPENDITURES**

Mr. Smock reported that expenditures were in order. He noted that an instance of sales tax being paid was found and brought to the attention of the Finance Director.

**EXECUTIVE SESSION -**

Mr. Mallen moved and Mr. Smock seconded to adjourn to Executive Session at 8:25 p.m. for the purpose of discussing a taxpayer income tax issue, collective bargaining negotiations, sale of property at 223 Center Street and the discipline of a public employee and invited Scott Niehus, Barb Raikes, Steve Yaney, Shawn Neece and taxpayer into the session.

Upon roll call vote the motion passed unanimously.

Discussion occurred regarding a taxpayer income tax issue.

Discussion occurred regarding collective bargaining negotiations.

Discussion occurred regarding sale of property at 223 Center Street.

Discussion occurred regarding the discipline of a public employee.

Meeting reconvened at 9:32 p.m.

**ANY OTHER BUSINESS TO COME BEFORE COUNCIL**

Mr. Mallen moved and Mr. Lelko seconded to refund the taxpayer claim by the taxpayer represented by Shawn Neece in the full amount of the claim.

Upon roll call vote the motion passed unanimously.

Discussion occurred regarding the welcome to the City letter which is sent to new residents that includes information about their water and sewer account as well as potential municipal tax obligations.

Council members expressed that there is an opportunity for improvement to the letter and requested the letter be modified to be more informative and welcoming.

**ADJOURN**

Mr. Mallen moved and Mr. Smock seconded to adjourn. Upon voice vote the motion passed unanimously.

The meeting adjourned at 9:45 p.m.

Attest:

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NANCY MCARTHUR, Mayor  
President of Council

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AMY DAY  
Clerk of Council