

REGULAR SESSION

June 9, 2022

The Council of the City of Chardon met in Regular Session Thursday, June 9, 2022 at 6:30 p.m. in Council Chambers of the Chardon Municipal Center.

Christopher Grau, Mayor & President of Council presiding.

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

Members of Council present: Deborah Chuha, Christopher Grau, David Lelko, Kyle Martin, Heather Means, Daniel Meleski.

Members of Council absent: Andrew Blackley.

Others Present: City Manager Randy Sharpe, Finance Director Mark Iacofano, Clerk of Council Amy Day, Law Director Benjamin Chojnacki, Police Chief Scott Niehus, City Engineer Doug Courtney, Community Development Administrator Steve Yaney, Public Service Director Paul Hornyak, Ken Ovark, Paul Ovark, Anastasia Nicholas, K. Johnson, Bill Hess, Ethan Maynard, Dean Carlo, Chris Carlo, Dave Combs, Amy Patterson, Elisabeth Giedt, Peter Byrnes, Wayne Sanders, Todd Albright, Greg Dimolo, Fred Demming.

APPROVAL OF MINUTES

Mrs. Chuha moved and Mr. Meleski seconded to approve the minutes of the May 12, 2022 Regular Session as presented.

Upon roll call vote the motion passed unanimously.

Mayor Grau read a prepared statement reviewing guidelines about gatherings in Chardon Square, explaining that the Square is a public space open to all to openly practice their First Amendment rights.

City Manager, Randy Sharpe, read the First Amendment of the U.S. Constitution which says that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

MANAGER'S REPORT

Mr. Sharpe reported on recent personnel hirings and resignations.

Mr. Sharpe reported that the State Employment Relations Board has informed the City that they will be conducting an evidentiary hearing in Columbus in regards to the pending part-time patrol officer representation issue. A date has not yet been set for the hearing.

Mr. Sharpe reported that the 2021 Annual Report has been finalized and reviewed some of the notable events from 2021.

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

PLANNING COMMISSION REPORT

Mr. Meleski reported that Planning Commission met in Regular Session and granted approval to Wendy's Restaurant for a sign deviation.

Mr. Meleski reported that Planning Commission granted approval for the concept site plan as well as a lot split for the property at 191 Fifth Avenue.

Mr. Meleski reported that Planning Commission also granted concept site plan approval for a lot split/lot reconfiguration at 312 Park Avenue.

COUNCIL COMMITTEE REPORTS - none

HEARING OF PERSONS BEFORE COUNCIL

Those Persons on the Agenda - none.

General Public

Gregory Dimeolo spoke in opposition to the City allowing a Pride Event on the Square on June 18 and stated that allowing the event goes beyond freedom of speech.

Fred Deming, 9148 Wyandot Rd., distributed a copy of the Ohio Constitution and stated that Council has taken an Oath of Office to uphold the Constitution and asked Council to uphold their Oath of Office and not allow things that are ungodly.

Chris Carlo asked what types of gatherings the City would prohibit on the Square.

Mr. Chojnacki stated that the Square is the marketplace of ideas and the City will always permit people to express themselves there, as it is the place that our forefathers carved out as one of the essential places where people can express themselves. The City will not engage in any prior restraint on speech and will not presume that anything anyone is doing is a violation of the First Amendment because if the City does this before they exercise their activities, the City will be sued and will lose. He noted that there are parameters on what the First Amendment entitles people to do that includes: violence, obscenity and calls to imminent lawless action, and the Police Department is well-apprised about what conduct is or is not appropriate in a public space.

Dave Combs, 329 E. King St., stated that he does not like his tax dollars being used to support this event in the Square. His concern is that this event may contain some lewd behavior which he considers obscene.

Dean Carlo read sections of the Ohio Revised code Section 2907.321 (pandering obscenity involving a minor or impaired person). He added that he has reviewed the actions of the group putting on the Pride Event and asked Council if they feel the actions are obscene.

Mr. Chojnacki stated that the moral definition of obscenity is not the same as the legal definition of obscenity. The City's authority lies with the legal definition, and so its enforcement will follow that.

Ethan Maynard, resident of Middlefield, stated that he is concerned about the impact the public nudity at the Pride Event

will have on children. In addition, he believes that the sponsors of the event are not promoting peace and are pushing an extreme agenda.

Wayne Sanders, Chardon Christian Fellowship, asked how a private letter sent to City Council by some area pastors, was sent to the media.

Mayor Grau stated that once a letter is received by a City official, it is a public record. He was asked by individuals who knew about the existence of the letter, to share a copy with them.

Pastor Sanders stated that a point made in their letter to Council was that one of the event organizers is a self-proclaimed "rabble-rouser" and asked what trouble they are trying to promote by coming to Chardon.

Elizabeth Giedt, Myra Drive resident, addressed Council and thanked them for protecting people's First Amendment rights. She urged people who do not wish to participate in the event to stay home.

Peter Burns, 107 Ferris Avenue, stated that his only request is that event attendees pick up the park after they are done.

Todd Albright, 104 North Street, asked if obscenity is more clearly defined in a public setting.

Mr. Chojnacki stated that obscenity can have different meanings in different contexts. The public square is a traditional public forum where a person can say and do what they wish as long as it is not obscene or injuring someone. In a designated or limited public forum, such as a school, a person's rights are less available.

Fred Demming stated that when someone's rights interfere with another person's, they no longer have their rights.

Mr. Chojnacki stated that the City is exercising their independent authority to do nothing on the Square and to not stop people from engaging in protective conduct in a public space.

Chris Carlo asked who will pay for any additional police.

Mr. Sharpe stated that the event organizers will hire two additional police officers, and if additional police resources are needed, the City will call them in.

Ms. Means asked if a settlement resulting from the City denying this group from gathering on the Square would be paid for by taxpayers.

Mr. Chojnacki stated that it would.

Ms. Means questioned why the City would deny the group from gathering if they know this in advance.

Mayor Grau thanked the community for their comments and he hoped the explanation of the City's position will clarify why the City is allowing the event to take place.

OLD BUSINESS - none.

NEW BUSINESS

Community Development Administrator, Steve Yaney, reported that Hayden Heiby tendered his resignation as Zoning Inspector. He stated that it has become increasingly challenging to fill the Zoning Inspector position when it becomes vacant, and in addition, the job has become more clerical in nature. As a result, staff is proposing to change the job title to Community Development Project Coordinator and modify the job description so that it more closely aligns with the duties of the position.

Ms. Means moved and Mr. Meleski seconded to change the title of Zoning Inspector to Community Development Project Coordinator with the additional responsibilities outlined in the document provided by Steve Yaney. Upon roll call vote the motion passed unanimously.

LEGISLATION

RESOLUTION NO. 11-22

A RESOLUTION TEMPORARILY WAIVING THE OBLIGATION TO INSTALL SIDEWALKS ALONG THE PROPERTY FRONTAGE LOCATED AT 510 CENTER STREET was read for the first time by title only.

Mr. Meleski moved and Ms. Means 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. 11-22 was then read for the second and third time by title only.

Mr. Meleski moved and Mrs. Chuha seconded for the adoption of Resolution No. 11-22.

Mr. Yaney reported that the City received a request from Paul Doherty of WeCall for a temporary waiver for the installation of sidewalk at 510 Center Street until sidewalks are installed on one or more of the adjoining properties.

Upon roll call vote the motion passed unanimously.

ORDINANCE NO. 3206

AN ORDINANCE AMENDING ORDINANCE NO. 2792 TO ADD CERTAIN PUBLIC IMPROVEMENTS THAT WILL DIRECTLY BENEFIT THE PARCELS FOR WHICH THE IMPROVEMENTS WERE DECLARED TO BE A PUBLIC PURPOSE was read for the first time by title only.

Mr. Meleski moved and Mrs. Chuha 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. 3206 was then read for the second and third time by title only.

Mrs. Chuha moved and Mr. Martin seconded for the adoption of Ordinance No. 3206.

Mr. Chojnacki stated that Council has before it, an Ordinance aimed at amending the 2013 TIF Ordinance which Council adopted in 2013. There are public improvements that will benefit the TIF parcels, including sidewalks on Wilson Mills Road to the corporation limit.

Upon roll call vote the motion passed unanimously.

ORDINANCE NO. 3207

AN ORDINANCE AWARDING THE CHARDON LIVING MEMORIAL PARK, PHASE 2 IMPROVEMENTS PROJECT TO OHIO PAVING & CONSTRUCTION CO., INC. AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS RELATED TO THE PROJECT AND DECLARING AN EMERGENCY was read for the first time by title only.

Mrs. Chuha moved and Mr. Meleski 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. 3207 was then read for the second and third time by title only.

Ms. Means moved and Mrs. Chuha seconded for the adoption of Ordinance No. 3207.

City Engineer, Doug Courtney, reviewed the scope of the project, noting that the add alternate items will not be able to be awarded due to budget constraints. He stated that after reviewing the bids, he recommends awarding the base contract to Ohio Paving & Construction in the amount of \$99,853.79.

Mr. Meleski asked if the contractor has done work for the City previously.

Mr. Courtney stated that Ohio Paving & Construction has worked for the City by repaving the municipal center parking lot.

Upon roll call vote the motion passed unanimously.

ORDINANCE NO. 3208

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE WITH LAKE ERIE VIDEO PRODUCTIONS, INC., AN OHIO CORPORATION, FOR PROPERTY LOCATED AT 105-B SOUTH STREET, CITY OF CHARDON, OHIO, AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. Meleski moved and Mrs. Chuha 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. 3208 was then read for the second and third time by title only.

Mr. Meleski moved and Mrs. Chuha seconded for the adoption of Ordinance No. 3208.

Mr. Yaney stated that Lake Erie Video has requested a renewal of their lease of 105 B South Street for a one-year term with two successive one-year options. The monthly rent is proposed at the existing rate with increases in the 2nd and 3rd years.

Results of the roll call vote:

Blackley: Absent
Chuha: Yes
Grau: Abstain
Lelko: Yes
Martin: Yes
Means: Yes
Meleski: Yes

Motion passed.

ORDINANCE NO. 3209

AN ORDINANCE AMENDING APPROPRIATIONS IN THE CITY OF CHARDON TREASURY FOR 2022 AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. Meleski moved and Mrs. Chuha 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. 3209 was then read for the second and third time by title only.

Mr. Meleski moved and Mr. Martin seconded for the adoption of Ordinance No. 3209.

Finance Director, Mark Iacofano, explained that the proposed amendments to appropriations are being requested to cover additional sidewalk maintenance and repairs over what was originally anticipated and increased construction costs related to the sidewalk maintenance program.

Upon roll call vote the motion passed unanimously.

REVIEW OF EXPENDITURES

Mr. Meleski reported that expenditures were in order.

EXECUTIVE SESSION

Mr. Meleski moved and Ms. Means seconded to adjourn to Executive Session at 8:02 p.m. to consider the purchase of public property for a public purpose and invite Ben Chojnacki, Randy Sharpe, Mark Iacofano, Steve Yaney and Amy Day into the session. Upon roll call vote the motion passed unanimously.

Discussion occurred regarding the purchase of public property for a public purpose.

Meeting reconvened at 8:25 p.m.

ANY OTHER BUSINESS TO COME BEFORE COUNCIL

Members of Council and staff made announcements regarding upcoming events.

ADJOURN

Mr. Meleski moved and Mrs. Chuha seconded to adjourn. Upon voice vote the motion passed unanimously.

The meeting adjourned at 8:36 p.m.

Attest:

CHRISTOPHER GRAU, Mayor
President of Council

AMY DAY
Clerk of Council