

## COUNCIL MINUTES

December 4, 2017

Council Chambers

7:00 P.M.

**7:00 P.M.** - President Ellington called the December 4, 2017 Newark City Council Meeting to order

**ROLL CALL-** Mr. Fraizer, Ms. Hall, Mr. Lang, Mr. Mangus, Mr. Marmie, Mr. Rath, Mr. Blake, Mr. Bubb, Mr. Cost, Mrs. Floyd

**INVOCATION** – Mr. Fraizer

**PLEDGE OF ALLEGIANCE-** President Ellington

### **CAUCUS-**

**Rule 21:** Reconsider Resolution No. 17-87, amend to Resolution No. 17-87 A

#### **Rule 11:**

**17-59** AN ORDINANCE CONSENTING TO THE ANNEXATION OF CERTAIN TERRITORY GENERALLY DESCRIBED AS BEING APPROXIMATELY 33.533 ACRES, MORE OR LESS, LOCATED IN NEWARK TOWNSHIP, TO THE CITY OF NEWARK, OHIO, AND DECLARING AN EMERGENCY.

**17-60** AN ORDINANCE OBJECTING TO THE ANNEXATION OF CERTAIN TERRITORY GENERALLY DESCRIBED AS BEING APPROXIMATELY 33.533 ACRES, MORE OR LESS, LOCATED IN NEWARK TOWNSHIP, TO THE CITY OF NEWARK, OHIO, AND DECLARING AN EMERGENCY.

**17-95** A RESOLUTION ADOPTING A STATEMENT INDICATING WHAT SERVICES, IF ANY, THE CITY OF NEWARK, OHIO WILL PROVIDE FOR APPROXIMATELY 33.533 ACRES, MORE OR LESS, LOCATED IN NEWARK TOWNSHIP, A TERRITORY PROPOSED FOR EXPEDITED II ANNEXATION, AND DECLARING AN EMERGENCY.

**17-96** A RESOLUTION REGARDING A BUFFER ZONE FOR THE ANNEXATION OF APPROXIMATELY 33.533 ACRES, MORE OR LESS, LOCATED IN NEWARK TOWNSHIP, AND DECLARING AN EMERGENCY.

### **MINUTES of November 20, 2017**

#### **APPOINTMENTS –**

**Mayor Hall- reappointing Jack Gienger to the City of Newark Board of Zoning Adjustment.** His four year term will begin January 1, 2018 and expire December 31, 2021.- **No Objections**

**Mayor Hall-**reappointing Carole Wachtel to The Combined General Health District Board as one of the two City of Newark representatives. Her new term begins January 1, 2018. This term will be for 5 years and 2 months to get the appointment in line with the District Advisory Council annual meeting, per their request. Her term will expire February 28, 2023. Subsequent terms will be 5 years. – **No Objections**

**Mayor Hall-** appointing Mark Mauter, Sue Spiker and Kandee Engle to the Etna Corporate Park Joint Economic Development Zone 1 (ECP JEDZ1) Board. Their two year terms begin January 1, 2018 and will expire December 31, 2019.- **No Objections**

#### **REPORTS OF STANDING COMMITTEES**

Finance- **Received & Filed**

Service- **Received & Filed**

#### **REPORTS FROM CITY OFFICIALS**

**Stephen E. Johnson, City of Newark Auditor-** announcing that the Government Finance Officers of the United States and Canada (GFOA) have awarded the City Auditor's Office the certificate of Excellence in Financial Reporting. This award represents the 25<sup>th</sup> year the Auditor's Office has received this honor. The certificate is awarded to entities whose financial statements meet the GFOA's high standards for reporting and represent transparency and clarity in accounting practices. This recognition represents the highest award in government financial reporting. - **Received & Filed**

**Barb Jobes, City Tax Administrator-** income tax report for the period ending October 31, 2017 and November 15, 2017- **Received & Filed** .

## COMMUNICATIONS

**Ohio Division of Liquor Control-** transfer application from Bellaire Hospitalities to Widewaters Newark Hotel Management Co LLC DBA Cherry Valley Lodge. - **Received & Filed**

**Ohio Division of Liquor Control-** new application for Widewaters Newark Hotel Management Co LLC DBA Cherry Valley Lodge. - **Received & Filed**

**GGG Inc-** notification of proposed construction of a telecommunication pole with an approximate height of 40 feet at an address to be determined, approximately .16 miles west of the intersection of Deo Drive and Mt. Vernon Road in Newark, Ohio. - **Received & Filed**

## COMMENTS FROM CITIZENS

**Callie Rucker, 130 Delmar Ave-** she discussed the alleged comment made calling some citizens undesirables. She stated that as a community we needed to set an example for the children.

**Laura Hanby, 1120 Wintermute Ave-** stated that we could use another Police Officer to keep our town safe instead of Council getting an 11% raise. She stated that maybe if we had another Police Officer we wouldn't have lost the gazebo or perhaps we wouldn't lose the walking path. She thanked Jeremy for being a dedicated person to this town and that he has done a good job and wished some of the other Council members would step up to where he has been. She stated that they don't see anyone else out there.

**Daniel Crawford, 163 S 2<sup>nd</sup> Street-** he stated he was opposed the pay raises for City Council. He stated that he pitched an idea before about the people having a say in whether elected officials at all levels receive raises. He thinks here in the city an initiative petition would be one way of doing that. He stated considering that we have a tight budget it sends the wrong message to give even a small raise. He urged a no vote on Ordinance 17-58.

**Jen Kenagy, 2584 Uplandview Ct-** she recognized Mark Fraizer for being at the Look Up Center on Thanksgiving morning. Jeremy is always out with us, he was at the Epic rally which was a good rally. She wanted to touch on three subjects, one was the gazebo transparency. She stated that a couple of things has come up with regard to who paid for it and it is not getting back to the attorney who is representing the group. Whether the donations were for paying for rebuilding or taking it away, the group wants to know who did it and who paid for it. They are asking for it to be put back still. She stated she met with Eric Wright regarding the foot bridge closing and he said that when the guy with the machete was beating on the school window no police came. That to me is very concerning that we have a preschool with someone beating on the window with a machete and nobody is going to run on that call. If we close the foot bridge is that a band aid to the real issue which is the lack of our police forces. She stated she talked to him about a resource officer but that they don't have funds to do that. She also was opposed to the raises for council. She stated that they spoke after the last meeting and that this would give full time credit but that this is not a full time job. The last time I spoke Mr. Rath said he didn't get my email and then at 11:00 at night on the 21<sup>st</sup> of November he sent an email that said this is an email I actually received. So I wanted to investigate if it was a server issue because maybe the emails weren't going through because that was a pretty common thread when I hit doors and the last several months. The email server di shoe on the 17<sup>th</sup> of November that it did go through at 1:57 and also the two that I sent in January that was also not responded to also showed up on the server list. If you guys are going to sit up there and vote for a raise for yourselves I think you have to make sure you are doing the job, representing the people and listening.

## ORDINANCES ON SECOND READING

**By: Marmie, Cost, Floyd, Rath, Lang**

**17-57** AN ORDINANCE AMENDING THE POSITION CLASSIFICATION, PAY RANGE, AND POSITION AUTHORIZATION TABLES OF THE CITY OF NEWARK BY CREATING THE POSITION OF ASSISTANT DIRECTOR OF HUMAN RESOURCES WITHIN THE DIVISION OF HUMAN RESOURCES WITH A STRENGTH OF ONE (1).

**Motion by Mr. Bubb to adopt Ordinance No. 17-57, second by Mr. Fraizer**

**Motion passed by a vote of 10-0.**

**By: Rath, Marmie, Floyd, Lang**

**17-58** AN ORDINANCE SETTING COMPENSATION WITH RESPECT TO CERTAIN ELECTED OFFICIALS OF THE CITY OF NEWARK, OHIO AND REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH

**Motion by Mr. Bubb to adopt Ordinance No. 17-58, second by Mr. Fraizer**

**Mr. Lang-** we have discussed this raise within the context of getting the full credit under the OPERS requirements. I want to propose an amendment to 17-58 that would go ahead and take the step to do that. I understand that initially there were some concerns from the Auditor. What we want to propose is that the Clerk of Council and the President of Council would be responsible for monitoring changes to OPERS and in the event of a change would notify the Auditor and the Auditor would calculate the minimum required in order to ensure the full 12 months credit in each 12 month calendar year so I have included a formula as to how to do that as well and I have circulated that amendment to Council.

**Motion by Mr. Lang to amend Ordinance No. 17-58 to Ordinance 17-58 A, second by Mr. Fraizer**

**Motion to amend passed by a vote of 8-2 (Mangus, Blake)**

**Mrs. Floyd-** I have heard all of this discussion about the raise, number one it won't affect me I am not going to be here. I saw the headline in the Advocate that says 11% which sounds like a huge amount. I would be the first to say we need Policemen and Firemen. The \$800.00 a year times 7 which is what it would be this next year would be like \$5600.00. I will be honest when I was first appointed in April of 2007 to be on City Council someone asked me if we got paid to be on City Council and I said I think so and they asked me how much and I said I don't know. I don't think anyone up here is doing it for the money. I know you have heard me mention the sleepless nights that I have had over some issues that have been very difficult. I'm not convinced that the \$800.00 difference will make anybody run for Council with everything that is entailed with it. All the time that it takes to do that and all of the campaigning and those of you who just ran for office knows how expensive campaigning can be, \$800.00 doesn't even touch it. I noticed in the Advocate editorial it mentioned that Councilmembers in Zanesville make \$9,000.00 a year. I guess I don't see that it is that big of an issue as it has been. I realize that it is one time when you can say no. I do think that we are not talking about a huge amount of money. As public employees like it or not we are attached to the retirement system.

**Mr. Lang-** the last time we had some comments from folks that made me think. Autumn, thank you for getting some numbers for me. The last raise this body saw was in 2007 and I also asked Autumn to go back and look at a couple of things for me and as it has been reported it does amount to about an 11% raise. Over that same time period the cumulative rate of inflation is about a little over 22% so we are talking about half the rate of inflation. The cumulative raises that we have given to the fire fighters amounts to just under 20% over that time and for the Police Department it is close to 25%. I just want to lay those numbers out there to put into perspective. It was also mentioned that this body should get raises after everybody else in the city government. Autumn was also able to confirm that over those 11 years I don't think it will surprise anybody to know that every other city employee has seen a raise over that time.

**Motion to adopt Ordinance 17-58 A passed by a vote of 6-4 (Blake, Bubb, Cost, Mangus)**

## **RESOLUTIONS ON SECOND READING**

**By: Rath, Marmie, Cost, Floyd, Lang, Fraizer**

**17-90** A RESOLUTION PROPOSING THE CREATION OF A SPECIAL IMPROVEMENT DISTRICT (DOWNTOWN NEWARK SPECIAL IMPROVEMENT DISTRICT, INC.) ALONG WITH THE REQUIRED PETITIONS, THE INITIAL ARTICLES OF INCORPORATION, AND THE PROPOSED PLAN FOR SERVICES FOR THE SPECIAL IMPROVEMENT DISTRICT

**Motion by Mr. Rath to adopt Resolution No. 17-90, second by Mr. Fraizer**

**Motion passed by a vote of 10-0.**

## **RESOLUTIONS ON FIRST READING**

**By: Marmie, Floyd, Cost, Rath**

**17-91** APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION. Expedite (100 General Fund: \$ 6,233.33-Grant for carcinogen blocking nomex hoods; 100 General Fund: \$ 6,066.15- pay off lease for copiers; 930/931 JEDD/JEDZ2 Fund: \$681,186.00: 3<sup>rd</sup> Quarter Collections Distribution)

**Motion by Mr. Marmie to waive the two day reading rule on Resolution No. 17-91, second by Mrs. Floyd**

**Mr. Marmie-** we have some expenses that we have to get out immediately and we are getting near the end of the year so we need to make sure these are expedited.

**Motion to waive the two day reading rule passed by a vote of 10-0.**

**Motion by Mr. Marmie to adopt Resolution No. 17-91, second by Mrs. Floyd**

**Motion passed by a vote of 10-0.**

**By: Rath, Marmie, Cost, Floyd, Fraizer**

**17-93 PRELIMINARY LEGISLATION WITH ODOT FOR THE RESURFACING OF PORTIONS OF STATE ROUTE 16 AND STATE ROUTE 79**

**Held for a second reading**

#### **COMMENTS FROM CITIZENS**

**Steven Smith, 237 Violet Ct-** he expressed concern regarding the safety of the areas in which children have to wait for school buses. Near the apartment blocks on Reddington Road near the playground there is a bus stop for the children. There is no sidewalk in that area for the children to get to the bus stop or the playground. During the winter months that area gets plowed and filled up with snow so that children end up walking in the street to their bus stop. This is clearly a safety problem.

#### **MISCELLANEOUS-**

**Rule 21:** Re-consider Resolution 17-87

**By: Rath, Floyd, Cost, Marmie**

**17-87 A** A RESOLUTION APPROPRIATING THE REAL ESTATE KNOWN AS PARCELS # 2 A AND 2B WD, NEWARK LICKING COUNTY, OHIO; AUTHORIZING THE DIRECTOR OF LAW TO PROCEED WITH A COMPLAINT FOR APPROPRIATION IN THE LICKING COUNTY COURT OF COMMON PLEAS AND DECLARING AN EMERGENCY

**Law Director Sassen-** I am going to take a little bit of your time tonight because there are a couple of issues that we need to address. The first is the need to reconsider Resolution 17-87 which was passed by Council two weeks ago. There were some relatively minor errors in that piece of legislation that need to be corrected. I have discussed it with Mr. Rath and Mr. Cost who are the Chair and Vice Chair of the Service Committee where that legislation arose from. Resolution 17-87 was a piece of legislation appropriating a small portion of land for the Ohio Street Bridge project and the land being essentially abandoned and the owners unknown. The problem was in the preamble and the body of the legislation it was stated that the parcels being appropriated were 2A and 2B but should have read 2, 2A and 2B and the amount of money that has been appropriated and would be set aside for payment of these appropriations if an owner were to come forward needed to be changed also because the value of parcel 2 was left out which was essentially an oversight on the part of my office. The amount that was side aside for that parcel was \$2,000.00. Again I have spoken to Mr. Rath and Mr. Cost and at this point with your permission Mr. President I will yield the floor to Mr. Rath for a motion to reconsider Resolution 17-87.

**President Ellington-** with Rule 21 if something passed 2 weeks or the prior meeting you can use that if someone on the prevailing side makes a motion to reconsider that.

**Motion to reconsider Resolution No. 17-87, second by Mr. Cost**

**Motion to reconsider passed by a vote of 10-0.**

**President Ellington-** we are reconsidering Resolution 17-87 like it never happened.

**Law Director Sassen-** procedurally that means exactly that Mr. President. Resolution 17-87 is back on the table to correct the error that was made in that. I believe Mr. Rath is going to be making a motion to amend Resolution 17-87 to substitute Resolution 17-87 A.

**Motion to amend Resolution No. 17-87 to 17-87 A by Mr. Rath, second by Mr. Cost**

**Motion to amend passed by a vote of 10-0.**

**Resolution No. 17-87 A was adopted by a vote of 10-0.**

**Law Director Sassen-** I am going to be asking Council to evoke Rule 11 on the next four pieces of legislation on your agenda. There has been a petition to annex certain property on Sharon Valley Road from Newark Township into the City of Newark. It is known as an expedited II annexation as a result we have very limited timeline upon which we must act according to the Ohio Revised Code. The two resolutions that will come second Resolution 17-95 and 17-96 are the standard resolutions that we do for any annexation which basically say what services will be offered once the property is annexed. The second is stating if there is incompatible zoning that a buffer zone will be mandated by the city. The first two ordinances for those of you who have been around here long enough they are not in congruous. For those of you who are new when we do these annexations I like to put forward two pieces of legislation. One consenting to the annexation and one objecting to the annexation. The reason being is that non action on the petition to annex by the city is deemed to be approval therefore if the Council were to simply address Ordinance 17-59 the ordinance consenting to the annexation and reject that, that could be deemed as non-action because we took no action on it. We are bringing

them now as an emergency and we are bringing them under Rule 11. I have discussed that with Mr. Marmie and Mrs. Floyd who are in agreement because we will not have another round of committees and we will not have another opportunity at Council to address these pieces of legislation before the statutory imposed deadlines pass.

**By: Rath, Marmie, Cost, Floyd**

**17-59** AN ORDINANCE CONSENTING TO THE ANNEXATION OF CERTAIN TERRITORY GENERALLY DESCRIBED AS BEING APPROXIMATELY 33.533 ACRES, MORE OR LESS, LOCATED IN NEWARK TOWNSHIP, TO THE CITY OF NEWARK, OHIO, AND DECLARING AN EMERGENCY.

**Motion by Mr. Rath to adopt Ordinance No. 17-59, second by Mrs. Floyd**

**Mr. Rath-** from my understanding if you are ok with the annexation this is where you vote yes.

**Mr. Marmie-** if this one passes and we vote yes then the next ordinance 17-60 failure of motion we will not have to proceed with.

**Motion to adopt passed by a vote of 10-0.**

**By: Rath, Marmie, Cost, Floyd**

**17-60** AN ORDINANCE OBJECTING TO THE ANNEXATION OF CERTAIN TERRITORY GENERALLY DESCRIBED AS BEING APPROXIMATELY 33.533 ACRES, MORE OR LESS, LOCATED IN NEWARK TOWNSHIP, TO THE CITY OF NEWARK, OHIO, AND DECLARING AN EMERGENCY.

**Died due to no action**

**Law Director-** these next two are regarding the same annexation and these are the two resolutions required by statute to be adopted by Council in conjunction with the Ordinance accepting annexation.

**By: Rath, Marmie, Floyd, Cost, Fraizer**

**17-95** A RESOLUTION ADOPTING A STATEMENT INDICATING WHAT SERVICES, IF ANY, THE CITY OF NEWARK, OHIO WILL PROVIDE FOR APPROXIMATELY 33.533 ACRES, MORE OR LESS, LOCATED IN NEWARK TOWNSHIP, A TERRITORY PROPOSED FOR EXPEDITED II ANNEXATION, AND DECLARING AN EMERGENCY.

**Motion by Mr. Rath to adopt Resolution No. 17-95, second by Mrs. Floyd**

**Motion passed by a vote of 10-0.**

**By: Rath, Marmie, Floyd, Cost**

**17-96** A RESOLUTION REGARDING A BUFFER ZONE FOR THE ANNEXATION OF APPROXIMATELY 33.533 ACRES, MORE OR LESS, LOCATED IN NEWARK TOWNSHIP, AND DECLARING AN EMERGENCY.

**Motion by Mr. Rath to adopt Resolution No. 17-96, second by Mrs. Floyd**

**Motion passed by a vote of 10-0.**

**By: Rath, Fraizer**

**17-97** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE FOR THE CITY OF NEWARK, OHIO TO NULLIFY THE AGREEMENT OF APRIL 1, 2007 WITH THE LONGABERGER COMPANY AND TO RELEASE THE LIEN PREVIOUSLY PLACED AGAINST THE PROPERTY LOCATED AT AND KNOWN AS 1500 EAST MAIN STREET, NEWARK, OHIO AND DECLARING AN EMERGENCY

**Director Rhodes-** we are asking the minority and majority leaders to evoke Rule 11 to consider Resolution No. 17-97.

**Both leaders agreed to evoke rule 11.**

**Motion by Mr. Marmie to adopt Resolution No. 17-97, second by Mrs. Floyd**

**Motion passed by a vote of 10-0.**

**Mr. Fraizer-** I want to briefly address Ordinance 17-58. This raise I don't get. I have to win another election in order to get this raise. Because of the amount being as 800 hundred and some dollars in order to get credit at the end of my four years I will have about one year of credit is what I have been told for public service. I am up for re-election in two years so the politically expeditious thing for me to do is to vote no and then go into my election and say I didn't vote for a pay

raise but reading Alexander Hamilton which is a biography that I got for Christmas that I opened early is about doing what is politically right and not what is politically expedient. I feel this raise is in line with what is correct. People that serve in the military and serve in the State deserve credit for what they have served and I have no problem endorsing this and supporting it. I hope that adds some clarity as to why I would vote for this. It is about doing what is right.

**Mr. Lang-** I have my laptop here and I see you have yours Mr. President; I would encourage everyone to go green if possible. I have asked Autumn not to print out any more paper copies for me and maybe we can save a little more money on paper next year.

**Mr. President-** thank you we are working on that.

**Mr. Marmie-** called a Finance Committee meeting. Everybody should have in their possession the budget for 2018 to review and we will have the opportunity to discuss. If you do have questions while you are reviewing I would urge you to try to get with those individuals prior to the meeting to give them a heads so they can do research if they need to. I am going to briefly comment on the ordinance 17-58 for the pay raises. It is this body's requirement to vote on the salaries of the elected officials moving forward it can't be omitted therefore if this body would have voted no completely we would have been in violation of the law. We would have had to have some kind of amendment showing what you desired. I do agree this should be done sooner and prior to the election, I believe that it should be done prior to petitions taken out. We have attempted to do that previously it just isn't usually on the front burner until it is required. It's not about the money it is about the service credit. City Council has received service credit, City Council doesn't get any of the additional benefits, health insurance used to be provided; we have removed all of that. The only thing that justifies what that individual has done is that service credit. It doesn't give a full time retirement pension. For anybody to indicate that retirement benefits are awarded due to what is happening that is not true. It does give service credit and it is basically still the calculation of your top years which our top years are \$7,000.00. The Advocates article was vague and really muddied the water and tried to paint a picture that it was a lot more than it really is as far as what Council really gets.

**Mr. Rath-** called for a Service Committee meeting. He wished Tim Waldron a Happy Birthday. Mr. Smith if you want to talk to me afterwards I would be happy to talk to you about Reddington Road and Mr. Rhodes if you could join us.

**Mr. Bubb-** I just want to recognize up in the old Harts/Big Bear shopping center Ollie's front room furnishes is coming. It looks nice what they have done; they put a whole landscape island in the front parking lot. It is going to be a really nice addition to north Newark. I will not be here on December 18<sup>th</sup> so I wanted to wish Carol Floyd the best. It has been good serving with you for 10 years; I wish you the best and don't be a stranger. Thank you Mr. Mangus for your service as well. Welcome future Councilman Labutis.

President Ellington- our next committee meeting will be December 11<sup>th</sup> and our final Council meeting of the year will be December 18<sup>th</sup>.

**ADJOURNMENT-** Motion by Mr. Cost, second by Mr. Rath. Motion carried by acclamation.