

COUNCIL AGENDA

October 3, 2016
Council Chambers
7:00 P.M.

7:00 P.M. - President Ellington called the Monday October 3, 2016 Newark City Council Meeting to order.

ROLL CALL- Mr. Rolletta, Mr. Blake, Mr. Bubb, Mr. Cost, Mrs. Floyd, Mr. Fraizer, Ms. Hall, Mr. Johnson, Mr. Marmie

INVOCATION – Mr. Johnson

PLEDGE OF ALLEGIANCE

CAUCUS-

Mr. Fraizer- I am planning to offer a motion in miscellaneous comments to revisit Ordinance 16-19 and Ordinance 16-20.

Mr. Rath enters the meeting.

MINUTES of September 19, 2016 Motion by Mr. Cost to approve the September 19, 2016 Newark City Council Minutes as presented and the reading be dispensed with in view of the fact each member of Council has received written summary of same, second by Mr. Bubb. **Motion carried by acclamation.**

REPORTS OF STANDING COMMITTEES

Finance- **Received & Filed**

REPORTS FROM CITY OFFICIALS

Barb Jobses, City Income Tax Administrator- income tax revenues for the period ending September 15, 2016. - **Received & Filed**

COMMUNICATIONS

Tim Kraft, Auditor of State Dave Yost's Office- presenting the Auditor's Award with Distinction to City Auditor, Stephen Johnson

Ohio Division of Liquor Control- liquor agency contract- **Received & Filed**

PUBLIC HEARING

President Ellington opened the public hearing

By: Mr. Rath, Mrs. Floyd, Mr. Cost, Mr. Marmie, Mr. Johnson

16-26 AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY, GENERALLY DESCRIBED AS 965 MT. VERNON ROAD, CITY OF NEWARK, LICKING COUNTY, OHIO, FROM THAT OF RM – SINGLE FAMILY RESIDENCE MEDIUM DENSITY ZONING DISTRICT, TO GB – GENERAL BUSINESS ZONING DISTRICT.

Steve Eversole, 2495 Election House Rd, Lancaster- I am the general contractor for Pizza Cottage. We are asking for Council's consideration of this. The Planning Commission looked at this and I believe that they recommended approval of it. I believe that a couple of caveats' that they put on it was a 6 foot high fence around it which we are perfectly acceptable with that part and we are here to answer any questions Council might have tonight.

President Ellington closed the public hearing

Motion by Mr. Rath to adopt Ordinance 16-26, second by Mr. Fraizer

Mr. Rath- asked that the Planning Commission's recommendation be read.

Clerk read the recommendation letter.

Motion passed by a vote of 10-0.

COMMENTS FROM CITIZENS

William Butcher, 263 Union St- discussed his income tax and would like to know when his street is going to be paved
Eddie Mae Scott, 353 Eddy St- she was there on behalf of and is with The Think Tank on Poverty, she wanted to bring awareness to those in the public eye to the fact that legislators are thinking about reducing the amount of food stamps. She stated they estimated a \$1.62 per meal. She asked that those who have influence with our elected officials that children were being affected the most. She stated that schools are sending home brown bags of food for children for the weekend. She stated that it is a chronic problem. She also stated that elderly are affected by this because they may have to choose between their medication and food.

Virginia Beach, 162 Myrtle Ave – after the last meeting I read the minutes from the last time that we were here and it bothered me that Mr. Marmie referred to us as the township and Mr. Bubb is township folks. I thought that it negated our right to be here to say anything. I just want to remind you that area is a mixture of township and city residents. On my east next door is in the city, one house down is in the city and we all get along and live in harmony. I think that the issue is more of a residential area and the neighborhood. About one third to one half of the people who signed the petition was city people that signed that. The church is also in the city which is something that will be greatly impacted by what happens on that corner. Let me remind you that most of these township folks works or have worked in the city and have paid city taxes. They attend church in the city, eat in the city, shop in the city, bank in the city and they support city events so I hope that is not an issue with those of you on Council. A lot of us are just Newark people that happen to live in the township. I did notice that Mr. Marmie said and I do quote” I do feel for people in an area who have something move in that they didn’t really want, Virginia Beach has property rights”. Thank you for recognizing that fact Mr. Marmie. Secondly I want to thank Mr. Fraizer because I think that he has really struggled over this issue and he has really put a lot of time and energy into studying it. He and I are owners of a huge zoning map that some of you have probably never looked at. We talked about how changing that corner would have an effect on the neighborhood. If you look at the map I don’t see any areas on all of 21st Street where a business zoning is allowed to go 3 lots into a single residential neighborhood. The places that Mr. Marmie mentioned, Meijer, Kroger, Big Bear, Harts, Walmart and Kroger are next to multi residential homes not single residential neighborhoods. The exception to that would be on Church Street and one corner of West Main. Lastly I want to thank those of you who voted to keep our area a residential area, Mr. Rolletta, Mr. Cost, Mrs. Floyd, Mr. Johnson, Mr. Blake, Ms. Hall and Mr. Fraizer. All of you realize changing the zoning even to the next zoning up which would be Medium Intensity Business would still allow the possibility of eating and drinking establishments, laundromat, quick lube, car wash, auto sales, drive thru or a pawn shop. Even lower than limited would still allow those things. We know that this could come back up tonight and I hope that if it does you would thoughtfully consider what you would want in your neighborhood next you. I am going to quote Mr. Cost from the minutes “a neighborhood of people has property rights as well, Myrtle Ave is not a business corridor, and Myrtle Avenue is a residential neighborhood. I think that there is a big distinction.” Thank you Mr. Cost for that non-partisan observation and thank you to all of you for listening.

Dave Morris, 363 Queens Dr N – since you guys already passed the minutes from the previous meeting, I would like to read about what Mr. Fraizer had to say the last meeting, “I have spent the last month looking at the zoning code trying to determine the best place where we find ourselves. Looking at the zoning code, looking at what the rest of 21st Street is zoned and looking at what is currently zoned. There is built into the zoning code definitions of general business, medium intensity business and general office and the purpose of that is to ensure that there is a buffer for when it bumps up to or abuts to residential neighborhoods. So when it comes to limited commercial being brought to the table to butt up against a residential neighborhood this is where we get a lot of these issues. I understand the goal is to increase business and improve the opportunity for business but when it comes to limited commercial it opens up a whole quagmire of what can go there with no plan in place the opportunity for impact on that residential neighborhood. With the traffic patterns being what they already are and the business being in place in the general office district I don’t feel it is in our best interest to go into a spot zoning for limited commercial on this property; also to open up the opportunity for limited commercial throughout the city. I will oppose that as well and I appreciate that Mark I really do. However I am hearing rumors that you might be since you were on the prevailing side that you might bring up a motion tonight to reconsider that motion that you all passed or failed I guess is the proper terminology last time. I am in wonderment when a person less than 340 hours goes from being solidly for a neighborhood to being for a zoning issue. I don’t get that. I guess what I am asking you is during the time at the end of the meeting everyone goes around and says what is on their I mind if you would please in great detail explain step by step by step how you went from being against the zoning and maybe there were a few people on Council who helped you think through this process if there were I would like to know and our neighbors would like to know that too. If you would please accommodate us.

Bob Klockner, 289 Myrtle Ave- break ins, criminal trespassing, dangers from speeding to the children are just a few of the things but very important things as to what could take place with a business. People coming to that business are definitely going to be coming off of King Rd and are going to go through our area. It doesn’t have to be a big business.

People going off of 21st Street are not all going to go back off 21st Street to leave that business; they are going to come through our area. Now that's not going to help our area but it is going to hurt it. There are children and there are elderly that are in danger. Perhaps not everybody that travels through that area back and forth are going to be in cars there is also going to be foot traffic. The person that wants the business doesn't know about the foot traffic or the car traffic but we do, we live there. It's not good now let alone if a business goes up there. I don't know about rules and regulation but we are here because we care. Is the business owner here? I don't see him and I know he doesn't have to be here, we don't have to be here but we are. I hope there wasn't any bullying or berating about decisions made because I will tell you something there is a better word for a bully is a coward and I can't believe anybody would give in to that.

President Ellington- I will give Mr. Marmie or Mr. Fraizer one minute to respond if either of you want to.

Mr. Fraizer- the easiest thing for me to do is to leave it lie and not make the right decision. What I am trying to do is get a compromise in place that adequately protects the residents and also provides for the correct zoning to take place on 21st street. The biggest fear that I have is the appropriate zoning on 21st street compounding residential neighborhoods so what I am looking to do is get the right decision made and not cost the city more money by starting the process over again.

ORDINANCES ON SECOND READING

By: Mr. Rath, Mr. Marmie, Mrs. Floyd, Mr. Cost

16-38 AN ORDINANCE AUTHORIZING AND DIRECTING THE NEWARK CITY SAFETY DIRECTOR TO CERTIFY TO THE LICKING COUNTY AUDITOR, THE SUM OF \$509,034.37 INCURRED BY THE NEWARK CITY PROPERTY MAINTENANCE DIVISION WITH RESPECT TO PROPERTY MAINTAINENCE VIOLATIONS TO BE PLACED AS A LIEN UPON CERTAIN PARCELS OF REAL PROPERTY SITUATED IN THE CITY OF NEWARK, OHIO.

Motion to adopt Ordinance 16-38 by Mr. Rath, second by Mr. Bubb

Mr. Rath- this is a periodic process that we do to put liens on property that has had property maintenance fines levied against them and not paid.

Motion passed by a vote of 10-0.

By: Mrs. Floyd, Mr. Marmie, Mr. Cost, Mr. Johnson, Mr. Rath

16-39 AN ORDINANCE VACATING AN ALLEY AS SHOWN ON THE PLAT OF O.F. CONNELL'S SUBDIVISION OF OUTLOTS L, M, N and O OF THE WILLIAM C. MAHOLM ADDITION TO THE TOWN OF LOCKPORT, AS RECORDED IN PLAT BOOK 2, PAGE 104 OF THE LICKING COUNTY PLAT RECORDS; SAID ALLEY IS LOCATED BETWEEN 172 AND 180 GRANT STREET.

Motion by Mrs. Floyd to adopt Ordinance 16-39, second by Mr. Cost

Mrs. Floyd- there's no opposition to this so there is no problem passing it

Motion passed by a vote of 10-0.

RESOLUTIONS ON SECOND READING

By: Mr. Marmie, Mrs. Floyd, Mr. Cost, Mr. Johnson, Mr. Rath

16-84 A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (100 General Fund, \$694.67- Overtime NFD)

Motion to adopt Resolution 16-84 by Mr. Marmie, second by Mrs. Floyd

Motion passed by a vote of 10-0.

RESOLUTIONS ON FIRST READING

By: Mr. Marmie, Mrs. Floyd, Mr. Cost, Mr. Johnson

16-86 A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION- Expedite (233, Police Grant Fund, \$5,700.00 (Traffic grants from ODPS); 100, General Fund, \$20,327.40 (BWC Grant for Chest Compression System & Power Supply); 231, Probation Improvement Grant Fund, \$1,400.00 (Reimbursement for SCRAM Unit); 100, General Fund, \$15,000.00 (Defendant evaluations & Interpreters)

Motion by Mr. Marmie to waive the two day reading rule on Resolution 16-86, second by Mrs. Floyd

Mr. Marmie- these items all need to be expedited because they are items that need immediate attention, everything from getting a new scam unit to making sure that our court system can still continue to run.

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

Motion to adopt Resolution 16-86 by Mr. Marmie, second by Mrs. Floyd

Motion passed by a vote of 10-0.

By: Mr. Cost, Mrs. Floyd, Mr. Johnson

16-87 A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO PREPARE AND SUBMIT TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) A ONE YEAR USE OF FUNDS/ACTION PLAN ALONG WITH AN APPLICATION FOR FY 2017 FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CDBG), AS REQUIRED BY 24 CFR PART 91.220, FOR VARIOUS PROGRAMS RELATED TO HOUSING AND COMMUNITY DEVELOPMENT.

Held for a second reading

By: Mr. Marmie, Mrs. Floyd, Mr. Cost, Mr. Johnson

16-88 A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO PREPARE AND SUBMIT APPLICATIONS TO THE OHIO DEPARTMENT OF PUBLIC SAFETY FOR FISCAL YEAR 2016 EDWARD BYRNE JUSTICE ASSISTANCE GRANT (JAG-LE) FUNDING.

Held for a second reading

COMMENTS FROM CITIZENS

William Butcher, 263 Union St- stated that he saw a car go through a school buses stop sign while dropping kids off.

MISCELLANEOUS

Mr. Blake- I want to compliment Mr. Johnson on the work that he does. I know that I had a chance when I was first elected to Council to serve as the chair of Finance Committee and we had a chance to talk more frequently at that point and it was always an enjoyable time to learn about city finances. I want to thank you and your staff publicly for the work that you do for our citizens and making our funds able to be accountable. October 9th, this Sunday at the Davis Shai House from 2-5 there is a collaboration of organizations coming together to provide a diversity event. There will be music, food and a celebration of all of our diversity here in Licking County, not only race but gender, ethnicity, religion so that should be a fun event. On October 11th The South Newark Civic Association is hosting an event that includes Judge Stansbury, Chief Connell, members of Council and hopefully our Law Director will be able to attend. We want to have a casual conversation about the disease of drug addiction and ways that we can partner not only with law enforcement and non-profits to combat that and to have understanding of that. He introduced his Aunt and cousin who are visiting from the Florida Keys and stated it had been 8 months since his cousin was here and she noticed all of the changes that have occurred downtown.

Mr. Bubb- congratulations Steve

Mr. Cost- Steve I want to thank you for everything that you and your office do for the City of Newark. That is a great honor and we are all very proud of the work that you do. I also want to thank the neighbors of Myrtle Ave for being willing to come back again tonight and express your views and remind us how you feel about things.

Mrs. Floyd- congratulations to Steve and your office staff it is well deserved. This week is the opening of Thirty One West. They have music October 4,5,6,7 and 8th in the ballroom and that is another addition to everything that is going on downtown. She reminded everyone that October 27th is Safe Trick or Treat on the Square from 5:00-6:30. I want to remind Councilmembers according to our rules and I know I go over it occasionally, we have a 3 minute time limit in miscellaneous. It is not a time for long discussion. It has been in the rules for quite a long time.

Mr. Fraizer- Motion to reconsider Ordinance 16-19, second by Mr. Bubb

Mrs. Floyd- I don't know what he is going to reconsider it to, whether he wants to go to General Business that he mentioned on the phone to me or whether you want to bring it up again as Limited Commercial. I wanted to mention that if you go to General Business a lot of the same things that Virginia mentioned a neighborhood grocery store, tattoo parlor, restaurant, gas station, quick lube, tire store, car wash and a pawn shop, all of those things could be included at that area as well and I realize that you want to make everybody comfortable with what is going on. Unfortunately in a

zoning situation that doesn't happen. There is one group that is really happy and one group that is really not happy. I am opposed to reconsidering it.

President Ellington- I would agree I think that zoning is the toughest votes that we have.

The vote to reconsider Ordinance 16-19 was a tie 5 Yeas (Mr. Bubb, Mr. Marmie, Mr. Johnson, Mr. Fraizer, Mr. Rath)-5 Nays (Mr. Rolletta, Mr. Blake, Mr. Cost, Mrs. Floyd, Ms. Hall) President Ellington broke the tie with a yes vote.

Motion by Mr. Fraizer to amend Ordinance 16-19 and Ordinance 16-20 to GB, second by Mr. Bubb

Mr. Rath- point of order, we can only deal with one at a time

President Ellington- thank you Mr. Rath yes we are only dealing with Ordinance 16-19 at this time Mr. Fraizer

Mr. Fraizer- Motion to amend Ordinance 16-19 then this is the 21st Street lot; all through 21st Street is general business. The recommendation that I have is to continue with this zoning of 21st Street for the long term future development of 21st Street. It also offers some protections. It is not as impacting as limited commercial and it will be a nice way to continue the current strategy to have a business district throughout 21st Street so future developments and business can continue.

Mr. Cost- how many votes will it take to amend it?

President Ellington- it will take 6 votes

Motion to amend Ordinance 16-19 was a tie 5 yeas Mr. Bubb, Mr. Marmie, Mr. Johnson, Mr. Fraizer, Mr. Rath)-5 Nays (Mr. Rolletta, Mr. Blake, Mr. Cost, Mrs. Floyd, Ms. Hall) President Ellington broke the tie with a yes vote.

Motion by Mr. Fraizer to table Ordinance 16-19 and send it back to the Planning Commission, second by Mr. Bubb

Mr. Fraizer- in order to respect the rights of property owners we are going to send this back to the Planning Commission. They are going to review it make sure everything is in order and that there are protections for residents as well and then they will send it back to Council so they can take a look at it also with their recommendation.

Motion to table Ordinance 16-19 and send it back to Planning Commission was a tie 5 yeas Mr. Bubb, Mr. Marmie, Mr. Johnson, Mr. Fraizer, Mr. Rath)-5 Nays (Mr. Rolletta, Mr. Blake, Mr. Cost, Mrs. Floyd, Ms. Hall) President Ellington broke the tie with a yes vote.

Motion by Mr. Fraizer to reconsider Ordinance 16-20, second by Mr. Bubb

Mr. Fraizer- this is to reconsider the Myrtle Ave lot which is adjacent and the third lot over. We are going to follow the same process of making that general business and send back to the Planning Commission for them to consider to make the corrections or any revisions that they have.

Mr. Johnson- how does general business differ from general commercial

Mrs. Floyd- general business includes everything that is in high intensity business, moderate intensity business, low intensity business, general office, church, school business and that includes anything from mini warehouses to a restaurant to a car wash, gas station, hotel, motels, tattoo shop, skating rink, golf driving range, bowling alley, quick lube, muffler brake shop, drive thru sales, music business, home health care services.

Mr. Fraizer- what does general commercial include? I think that was the real question what is in general commercial.

Mr. Johnson- general business sounds very similar

Mrs. Floyd- general business sounds very similar, convenience stores, meat or pharmacy stores, beer or wine carry out, antique or craft shops, barber, beauty shops, some more intense than others is what it amounts to. Some that would have more lights, noise and traffic than others.

Motion to reconsider failed by a 4 (Mr. Bubb, Mr. Marmie, Mr. Fraizer, Mr. Rath)-6 (Mr. Blake, Mr. Rolletta, Mr. Cost, Mrs. Floyd, Ms. Hall, Mr. Johnson)

Mr. Fraizer- so based on what the next steps is this will go back to the Planning Commission for the Myrtle Ave lot to be considered general business.

President Ellington- you mean the daycare lot, 21st Street

Mr. Fraizer- the hope is that the Planning Commission will get it right for how 21st Street should be zoned. We will hear it again; you guys are all welcome to come back. I appreciate your level of involvement and your willingness to talk to me and discuss this issue and we hope that this doesn't drag on forever which is why I brought it back up tonight. It is not fair to you to start the whole process over again. I appreciate your time and patience and I look forward to talking to you guys again.

Ms. Hall- I would like to thank the Myrtle Ave people for being here too. Mr. Johnson congratulations.

Mr. Marmie- called a finance committee meeting and advised William Butcher that he should try to get the license plate number of the vehicle that he sees not stopping for the bus and report it to the police because they can do something about it after the fact. Congratulations Mr. Johnson and your team I am sure that it is well deserved.

Mr. Rath- congratulations Mr. Johnson to you and your staff for your award and a special kudos to you for giving credit to your staff, very nice exhibit of leadership. He called for a Service Committee meeting.

President Ellington- congratulations Mr. Johnson another job well done you and your staff. You and your staff do a great job. Anytime there is a question you have the answer and if you don't get back to us with the answer directly. Thank you so much. Committee meeting Monday October 10th at 5:30 P.M. and the next Council meeting is October 17th at 7:00 P.M. Thanks you for your attendance we appreciate your input.

ADJOURNMENT- Motion by Mr. Rath, second by Mr. Fraizer. Motion carried by acclamation.