

COUNCIL MINUTES

November 21, 2016

Council Chambers

7:00 P.M.

7:00 P.M. - President Ellington called the November 21, 2016 Newark City Council Meeting to order.

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

INVOCATION – Mrs. Floyd

PLEDGE OF ALLEGIANCE- President Ellington

CAUCUS

MINUTES of November 7, 2016 Motion by Mr. Johnson to approve the November 7, 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. Rath. **Motion carried by acclamation.**

REPORTS OF STANDING COMMITTEES

Finance- **Received & Filed**

Service- **Received & Filed**

Ways & Means- **Received & Filed**

Capital Improvement- **Received & Filed**

REPORTS FROM CITY OFFICIALS

COMMUNICATIONS

Laura Hyatt- letter to Council regarding Lil' Bear stating the business is in trouble due to downtown construction causing a decrease in sales. - **Received & Filed**

PUBLIC HEARING

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

16-33 AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY, GENERALLY DESCRIBED AS 320 NORTH VERNON AVENUE, CITY OF NEWARK, LICKING COUNTY, OHIO, FROM THAT OF SINGLE-FAMILY RESIDENCE (RL – LOW DENSITY) ZONING DISTRICT, TO AD – AGRICULTURAL ZONING DISTRICT.

President Ellington opened the Public Hearing. Comments were received by:

Rita Disbrow, 360 N Vernon Ave- she stated that the previous owner didn't maintain the property as well as the new owner and that she was in support of the zoning change.

Joe Lombardo, 351 N Vernon Ave- he was not in favor of the zoning change and would like to see it kept residential.

Shannon Gibson, 314 N Vernon Ave- she was in favor of the zoning change. She stated that the property was well maintained and that it wasn't noisy.

Fred Cullop, 340 N Vernon Ave- not in favor of the zoning changes. He stated that the owner doesn't have a right of way to the barns. He stated he has had to deal with flies and that the current owner has his horses' right at the property line and he doesn't like it.

Gabrielle Yontz, 320 N Vernon Ave- responded to the previous citizen's comments by stating that he owns the road near the church and that is what they use as an access to the farm which is the second parcel being considered.

Twila Rine, 341 N Vernon Ave- she gave members of Council a packet of pictures of the property being considered and how it abuts other neighbor's properties.

Jerry Rine, 341 N Vernon Ave- he asked if the uses listed under AD zoning can be done on the property now.

Mr. Marmie- I believe that when the zoning changes came in this was grandfathered in so it is an acceptable non-conforming use so it can be utilized as agricultural.

Jerry Rine- so this can already be done on the property without getting agricultural? Everything that is happening on the property now can be done without getting zoned AD?

President Ellington- I believe that is correct.

Jerry Rine- then I don't understand why we need a property change.

Brian Morehead- the property can continue to be used as agricultural as long as it is a continued use. I believe the owners thought is to line the zoning up with the use that is going on now as a legal use. If he wanted to build a barn in the back he couldn't just do that in the residential zoning, he would have to go to the Board of Zoning Appeals for a variance but in the agricultural district he would be able to do that without additional approval.

Jerry Rine- so a church couldn't be built there now without additional approval?

Brian Morehead- that is correct. There are things that are allowed in the agricultural not allowed in the residential and things in the residential not allowed in agricultural.

Jerry Rine- that is why we are against it because all kinds of things can happen in our neighborhood. Someone can say they are going to do something now and then in two years change their mind or in two years sell the property and the zoning goes with the property. They can come in and do anything they want. We want to keep our neighborhood residential because that is the way it has been and most of us have lived there for many, many years.

President Ellington- anything within that zoning.

Twila Rine- asked about the agricultural use being allowed after the previous owner sold all of the livestock and the property was sold to a new owner after the previous owner passed away.

President Ellington- it has to be vacant and not in use for two years.

Twila Rine- at the top of the page under AD it says that it is for open spaces and we don't have that on North Vernon. A split rail fence is the only thing that separates his property from his neighbor's property. She stated her concerns for the owner being able to put up a barn or barns at will and she also asked whether there was a limit to the number of animals and buildings he was allowed to have or if that is something Council could establish tonight before passing the ordinance. She gave Council a petition that neighbors signed who did not want the zoning change.

Steve Brown, 330 N Vernon Ave- he stated that he didn't think people really minded a few sheep and a couple horse but according to the zoning he could build a hog farm, nobody wants a big hog barn. He stated that he sees both sides of the situation. He said he understood wanting to use the back part of the property it is a nice of property and he understands the owner wanted to file for CAUV but he thinks that you have to consider everyone. He stated he felt Council would be opening the door for other things that would be more unpleasant if they passed this.

Gabrielle Yontz- it sounds like some people think that this was residential and now we are asking for it to be agricultural. It has always been agricultural. Prior to coming into the city limits it has had animals on it. I heard concerns about buildings going up but what people don't realize is that you can't put anymore buildings back there because there is a 100 foot right of way all the way through the middle of that property and there are transmission lines. There is also a Newark City water line that goes through the property that is 15 feet. The lower part of the property is in flood plain so you couldn't put a campground in whether it is him or someone else. The back two parcels which are about 15 acres sit outside of the residential neighborhood. The zoning right next to it is being farmed right now but what people don't realize is that it is zoned general construction. The reason for the request of the rezoning goes back to if we were to cease and go beyond the two years if we decided to travel then we wouldn't be able to do that. The other part of that is the market value of the property. If you lost the two years then you are talking about 16 acres that you wouldn't be able to do a small farm on. That will greatly impact the value of that property because you have a lot of land that needs to be brush hogged not just mowed. He addressed that the AD zoning states it has to be a small farm and Dave when he spoke to him told him there are limits to how many animals you can have on a small farm. I think this property fits what this ordinance was put in place for. I appreciate your time.

Joe Lombardo- evidentially his biggest worry is about paying taxes and what is going to happen to his property in a couple of years but what is going to happen to all of ours. He also stated he was concerned about their property values if this passes.

President Ellington closed the Public Hearing was closed.

Motion by Mr. Rath to adopt Ordinance 16-33, second by Mr. Fraizer

Motion by Mr. Rath to amend Ordinance 16-33, second by Mr. Fraizer

Mr. Rath- I would like to the amendment to read as parcel #1 at 320 N Vernon remain Single Family Residence Low Density District without any changes. Parcel #2 and Parcel #3 shall be changed to AD, Agricultural District as requested.

Mr. Fraizer- just a point of clarification, is this to align it with the recommendation of the Planning Commission?

Mr. Rath- it is, the amendment is based off of the recommendation of the Planning Commission.

Motion to amend Ordinance 16-33 to be consistent with the Planning Commission's recommendation that parcel #1 remain RL, Single Family Residence Low Density District and that parcel #2 and parcel #3 be rezoned to AD, Agricultural District passed by a vote of 10-0.

Mr. Rath- I would like to hear the opinion of the Service Director addressing some of these issues. We have had some comments both for and opposed. You have heard the reasoning's of both. The property owner has discussed a right of way going down the middle as well as a water line and a portion of the property being in a flood plain and making it not possible to build on that property. If you could comment on those and briefly define a small farm.

Director Rhodes- in Newark zoning has a process, people come in and files for a change of zoning it is not something that the administration seeks out. It comes to Council, it comes to Planning Commission and at Planning Commission we have a public hearing. At that time we don't make any comments we ask a few questions, we don't give an opinion. Then we go out and look at the site. In this particular case myself, Brian Morehead and Nate Strauch the Zoning Inspector went out and walked the property. The first thing that I thought when I came down North Vernon is that it is all houses; we have to make sure the house remains residential because it is a residential street. Then when you go to the rear of the property it is farm land. There are easements and it is in the 100 year flood plain. Could they build a building back there I'd have to look at it and the easements to comment on that. If you are asking me for a definition of a small farm I would have to yield to Nate in zoning but in my opinion what they have there now is a small farm. It lines up with the other uses with the church and other farm land that are back there. The first thing that we wanted to do was preserve the residential area on North Vernon by making sure that the first parcel remains residential but in the rear it seems to be a reasonable request to go to agricultural.

Mr. Rath- does the legal definition limit the number of livestock or the number of acres that you can plant? I'm not asking specific numbers.

Director Rhodes- I don't have that information, I'd have to again defer to zoning.

Mr. Fraizer- as far as access to that location is there appropriate access in order for them to not go through people's yards?

Director Rhodes- if you go down North Vernon and where the curve is there is an access road there. Whether that is his property or somebody else's I would have to look at the plat map but there is a roadway that allows them to get to the back of the property.

Mr. Rath- I would like to hear the opinion of Mr. Marmie since it is in his ward.

Mr. Marmie- what appears to be happening here is that somebody is trying to make sure that the law and the current zoning match what is actually happening. It's kind of amazing because I have heard comments such as who wants a farm across the street or next to them? I have one right across from my house. They rezoned it residential so it could be developed and the neighbors were actually upset about it. You are always going to get these conflicting notions. The people in our neighborhood said if they build houses on that farm it will diminish our property values but here we are hearing if they make it a farm it is going to diminish property values. The property owner can do as he is doing now and operate it as a farm because it has been grandfathered in. The property owner is doing what we in the city like which is making sure we don't have all of these non-conforming uses and the property is zoned properly. All the land in the back portion which is now proposed as being agricultural is all surrounded by agricultural. If the church decided tomorrow to build a building where the beans are planted every year they could do so. I heard someone say what if they put up a church? There is a church 100 yards from there so what would be different about two churches instead of one? I am not seeing compelling evidence as to why we would not allow the agricultural in the area which we are considering. I think that the Planning Commission did a great job of saying leave the house residential because that is the why it is being utilized. If something does occur like Mr. Yontz has said where it would go back to it not being able to be utilized as a farm because it has been two years, now we have two parcels that will no longer qualify for CAUV so that means that the taxes will more than quadruple on those two parcels. The only way for a property owner to recoup that kind of increase in taxes is to put some other type of use on there. With that amount of acreage and the limited amount of building that can occur in a flood plain the best thing might be apartments. We can say what if they do this in the future but if we don't change it what if they do this? What if they put apartments back there are you going to like that or what if they put in a mobile home park if it is zoned residential back there? There are all kinds of things that we can say "what if"? What we have to do is look at the Ohio Revised Code, as a property owner is he doing what should be done, is it something contiguous with what is currently there. We have to say does residential and agricultural being side by side create a nuisance or a hardship? I don't see that. How many farms are in the City of Newark and are right next to residential properties? If you go out in my ward almost every residential property butts up against agricultural whether it is in the city or outside the city. There is a combination of both of those. At one point the entire area was agricultural. When I grew up put there, there were no houses on North Vernon. If we say it can't be done or it shouldn't be done he can continue to do it and all that is going to do is cause him or whoever the property owner is to try to make sure that it

stays that way. What is a property owner going to do to make sure they continue to get the CAUV? Let's use the example he decides to travel for a few years abroad, he is going to make sure farming stays there but how is he going to do it? Is that what we are going to want, him to sub-lease it to somebody else who may not be as good of a neighbor as he is because he is residing there? My bottom line is that it is being utilized as that currently and it has been, it was grandfathered in and at the request of the property owner he wants to make it a permanent thing to do what that property has been doing for years. I am in full support of changing the zoning as the Planning Commission modified it. I think that it was a great compromise to leave the house residential.

Ms. Hall- it seems like that if they are in the city already wouldn't there be a certain number of animals they can have and then if it goes agricultural it can be a hog farm, a chicken farm? Who can answer that?

Mr. Marmie- there are other guidelines that are outside of our guidelines dealing with agriculture. You have to have so many acres per cattle. It is a state requirement not a local requirement. There are urban farmers and you have to comply with the State of Ohio as well through the Department of Agriculture.

Mr. Cost- it seems that the change the Planning Commission has asked for is helping in my opinion to reduce the impact as far as the other residential properties. I would not have been in favor of the property being totally agricultural but by keeping where the house is residential, I agree with Mr. Marmie that it is a reasonable compromise and I think it lessens the impact on the neighbors.

Motion to adopt Ordinance 16-33 as amended by a vote of 9-1 (Ms. Hall)

COMMENTS FROM CITIZENS

ORDINANCEES ON SECOND READING

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

16-42 AN ORDINANCE VACATING PORTIONS OF ALLEYS AS SHOWN ON THE PLAT OF CHARLES MILLER'S ADDITION, AS RECORDED IN PLAT BOOK 2, PAGE 129 OF THE LICKING COUNTY PLAT RECORDS; SAID ALLEYS ARE LOCATED BETWEEN 226 AND 232 EAST MAIN STREET.

Motion to adopt Ordinance 16-42 by Mrs. Floyd, second by Mr. Johnson

Mrs. Floyd- there is no opposition to the alley vacation

Motion passed by a vote of 10-0.

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

16-44 AN ORDINANCE AMENDING THE POSITION CLASSIFICATION, PAY RANGE AND DEPARTMENT AUTHORIZATION TABLES OF THE LICKING COUNTY MUNICIPAL CLERK OF COURTS, BY CHANGING THE NUMBER OF DEPUTY CLERKS (FULL TIME) AND SETTING COMPENSATION THEREFORE.

Motion by Mr. Bubb to adopt Ordinance 16-44, second by Mr. Fraizer

Motion passed by a vote of 10-0.

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

16-45 AN ORDINANCE WAIVING THE STATUTORY RESIDENCY REQUIREMENT FOR THE DIRECTOR OF PUBLIC SAFETY AND APPROVING MAINTENANCE OF A RESIDENCE OUTSIDE THE CITY LIMITS OF NEWARK, OHIO.

Motion to adopt Ordinance 16-45 by Mr. Bubb, second by Mr. Cost

Motion passed by a vote of 10-0.

ORDINANCES ON FIRST READING

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

16-46 AN ORDINANCE AMENDING SECTION 890.051 OF CHAPTER 890 OF THE CODIFIED ORDINANCES FOR THE CITY OF NEWARK, OHIO REGARDING THE LEVYING AND COLLECTION OF MUNICIPAL INCOME TAXES

Held for a second reading

RESOLUTIONS ON SECOND READING

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

16-91 A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (100 General Fund, \$317,361.78- 2017 Worker's Comp bill; 221 Street/Traffic Fund, \$21,302.5127; 621 Water Administration Fund, \$46,419.13; 661 Sewer Administration Fund, \$21,484.34; 669 Storm Water Fund, \$2,885.97; 231 Adult Probation Fund, \$4,589.21)

Motion to adopt Resolution 16-91 by Mr. Marmie, second by Mrs. Floyd

Motion passed by a vote of 10-0.

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

16-93 A RESOLUTION SUPPORTING THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE DESIGNATION OF STATE AND US BICYCLE ROUTES CROSSING OHIO, INCLUDING US BIKE ROUTE 50 AND STATE BIKE ROUTE 65 IN THE CITY OF NEWARK.

Motion to adopt Resolution 16-93 by Mr. Rath, second by Mr. Fraizer

Mr. Fraizer- I am excited to have a US Bike Route and the State Bike Routes come through the city of Newark, Ohio. The concern that I have is funding associated with it where the State is giving us signs but they aren't allocating funds to designate stand-alone paths in which bikers go through downtown Newark. I applaud the idea and I support it but I also think that the State of Ohio should put forth some money and effort to make our bike ways safer in the City of Newark, Ohio and support these bike routes we are approving tonight.

Motion passed by a vote of 10-0.

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

16-94 A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACT FOR CERTAIN ESSENTIAL SUPPLIES FOR VARIOUS DEPARTMENTS OF THE CITY OF NEWARK, OHIO, FOR 2017.

Motion by Mr. Johnson to adopt Resolution 16-94, second by Mr. Fraizer

Motion passed by a vote of 10-0.

RESOLUTIONS ON FIRST READING

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

16-95 A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION- Expedite (153, Compensated Absences Fund, \$1,300.00- Termination Comp; 958, Fire Damage Fund, \$24,240.00- Services General; 209, Hotel/Motel Fund, \$35,000.00- Bed Tax Disbursements)

Motion by Mr. Marmie to waive the two day reading rule on Resolution 16-95, second by Mrs. Floyd

Mr. Marmie- there are some disbursements as far as payouts for employees and other bills that we want to get paid right away before the need of the year.

Motion passed by a vote of 10-0.

Motion to adopt Resolution 16-95 by Mr. Marmie, second by Mrs. Floyd

Motion passed by a vote of 10-0.

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

16-96 A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION- CI (335, Capital Improvements Fund, \$30,247.00- Land Improvements)

Held for a second reading

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

16-97 A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION

(272, License Plate Permissive Tax Fund, in the amount of \$400,000.00)

Held for a second reading

COMMENTS FROM CITIZENS

MISCELLANEOUS

Mr. Bubb- I just wanted to remind everybody about this Friday evening will be the Christmas lighting in the downtown Canal Market District. It will be a little different from years past obviously but it will be a nice event. There is going to be a fireworks show. The WCLT radio station was nice enough to make that gracious contribution to make that fireworks show happen downtown. I would like to thank Doug Pricer for that. I wish everyone a happy Thanksgiving. Mr. Baum I wasn't at the last Council meeting to congratulate you but I want to do that and wish you the best. I am confident that you will do a good job.

Mrs. Floyd- it is very exciting to see Route 16 opening and the Cherry Valley light gone. Tomorrow they finish up the street out here and Third Street on Wednesday; it will be nice to see those orange barrels gone. This Saturday is small business Saturday and we have a lot of businesses in Newark including several new ones that hopefully people will go to and purchase something. I would like to encourage you to go to the Midland this weekend and watch the Nutcracker. It is very well done for a local production, most of the dancers are local but there are a few that come from Columbus. There are shows Friday, Saturday and Sunday. I want to wish everyone a Happy Thanksgiving.

Mr. Fraizer- Happy Thanksgiving. congratulations to the boys Newark Catholic football team. There is a Newark boys' and girls' basketball innovational coming up. There are a lot of opportunities for our local sports teams with the season coming up so I want to encourage everybody. I am very excited about Thornwood Crossing opening saving me some time on my drive back and forth to Columbus. We look forward to the future of Newark, the Urgent Care is going up and we see these road constructions actually getting done. With time comes prosperity and that is what we really hope for.

Ms. Hall- Happy Thanksgiving everyone, be safe if you are traveling.

Mr. Johnson – I think we have a lot to be thankful for and I want to wish everyone a very happy Thanksgiving. We look forward to a great future coming up.

Mr. Marmie- called a Finance Committee meeting. I want to wish everybody a Happy Thanksgiving. It is the one day of the year that I don't hold back. As Mr. Fraizer said the Newark Catholic football team had an outstanding run so far. They are going to be facing a tough opponent this weekend but I have confidence the team will show up and represent Newark well. I am also thankful Route 16 opened up. You don't know how many people asked me when it was going to open up since the first barrel went out there. I think that it will be fantastic for the traffic flow.

Mr. Rath- called a Service Committee meeting. I wish everyone a Happy Thanksgiving. I am very thankful for Route 16 opening up it is going to be a great improvement for the west end. It will definitely make the Third Ward more desirable to live in. I want to thank Roger Loomis and the Water Department, we have a water crisis in the Third Ward and they were very helpful and cooperative.

President Ellington- Happy Thanksgiving to everyone, thank you for coming. City Hall will be closed Thursday and Friday for the Thanksgiving holiday. Monday November 28th is Committee meetings at 5:30, Monday December 5th is the next Council meeting at 7:00. Hopefully we are moving along on the budget and we will be talking about that soon.

ADJOURNMENT- Motion by Mr. Cost, second by Mr. Rath. 8:03 P. M.