

COUNCIL MINUTES

February 17, 2015

Council Chambers

7:00 P.M.

7:00 P.M.- President Pro Tem Mr. Guthrie called the February 17, 2015 Newark City Council meeting to order.

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

Absent- President Ellington & Mr. Blake

INVOCATION – Mrs. Floyd

PLEDGE OF ALLEGIANCE- Stephen E. Johnson, City Auditor

CAUCUS-

Mr. Rolletta- I would just like to note that I have been planning to offer a motion to table Ordinance 15-04 until Mr. Blake can return. I believe the correct date will be March 16th.

Motion by Mr. Marmie to excuse Mr. Ellington and Mr. Blake, second by Mrs. Floyd, motion carried by acclamation.

MINUTES- February 2, 2015 Motion by Mr. Rath, second by Mr. Johnson to approve the minutes as presented and the reading be dispensed with in view of the fact each member of Council has received written summary of same. **Motion carried by acclamation**

APPOINTMENT

Mayor Hall- is appointing Mary Billy to The Combined General Health District Board as one of the two City of Newark representatives. Her term begins immediately to fill the term of a past member and expires on March 31, 2016. **Motion by Mr. Bubb to accept the appointment, second by Mr. Rath. Motion carried by acclamation.**

REPORTS OF STANDING COMMITTEE

Finance- **Received & Filed**

Service- **Received & Filed**

REPORTS OF CITY OFFICIALS

Stephen E Johnson, City Auditor- operating report for the period ending January 31, 2015.- **Received & Filed**

Barb Jobes, City Tax Administrator- Income Tax Revenue Reports for the period ending January 15, 2015. - **Received & Filed**

Barb Jobes, City Tax Administrator- Income Tax Revenue Reports for the period ending January 31, 2015. - **Received & Filed**

Steven Sarver, Police Chief- Newark Division of Police 2014 Annual Report- **Received & Filed**

COMMUNICATIONS

Ohio Division of Liquor Control-transfer application for Newark Foods LLC at 814 Mt. Vernon Rd- **Received & Filed**

Ohio Division of Liquor Control-new application for M and D Groceries Inc, DBA Country Club Carryout at 597 Country Club Dr- **Received & Filed**

Roger Loomis, Utility Superintendent- water bill liens in the amount of 25,085.91- **Received & Filed**

Pit Bull legislation- there were 12 communications received in favor of City Council adopting Ordinance 15-04 and three in opposition. - **Received & Filed**

COMMENTS FROM CITIZENS

Officer Dave Arndt- I am here to talk about Ordinance 15-05 regarding the elimination of the Captain's position. I just want to bring up a couple of things before Council votes on it. There are very few opportunities for promotion within the Division of Police and we are opposed to losing one of those spots for one of our Sergeants the opportunity to advance.

When we last met on this issue at Committees we were told that we would be going possibly above 70 and I am here to tell you by April we will be down another 3 Officers through retirements. We have a history at the Police Department of not back filling positions once people leave. Chief Sarver has also indicated that he will be leaving here in a couple of weeks and I would like the new Chief to have a say in what happens with the Captain's position. The Union is open to talking about reorganization

just not elimination of spots.

Peggy Jones-1115 Wilmington Ct, I have been reading a lot about the Pit Bull situation in the City of Newark as well as in other communities and finally I thought that I needed to come down here because I understand that people who have Pit Bulls love their animals but we all love our animals regardless of what breed they are. I am also aware that all dogs are animals and can bite at any time regardless of what breed they are. I also know that if you are a single person or widowed that animals become territorial and when a stranger comes around animals will react for the most part. I have seen it happen in my own home, with my own veterinarian and a calf he was tending to. My big concern is we have a lot of vicious dogs and Pit Bulls in the City of Newark at this time and what happens if this gets taken off the books and a child gets mugged by a Pit Bull that was not in control where does that put the city. This concerns me because I have a 14 month old great granddaughter who has a Pit Bull in that family and I know for a fact that it is going to bite because it is a puppy and it is mean. I hope that this doesn't come to a vote tonight without everyone in attendance. I think that this is such a tough issue and an important issue for the community of the City of Newark that every Council member that is serving the community should be here because I don't want to see the Council President make the decision.

Alley Long- 217 S Quentin Rd, I am here on behalf of my other supporters regarding the BSL. She stated that she has insurance on her Pit Bull, \$100,000.00 liability through Geico. The number of dog bites they get annually is outrageous but they weren't all Pit Bulls or Pit Bull mixed, they told me that they only received 3 or 4 calls regarding Pit Bull attacks. She stated that she is being charged with having a Pit Bull in her house and that Pit Bull is not a breed of dog and that we should change our law to say American Pit Bull Terrier and American Staffordshire Terrier because those are the breeds. She stated that she is facing 6 months in jail and that her Pit Bull will be taken away from her and euthanized even though he has never attacked or hurt anyone or another dog. She feels that Pit Bull owners are being discriminated against. She stated that other dogs such as Boston Terriers and wolf hybrids were used for fighting and wanted to know why they weren't considered vicious.

Theresa Wagers- 229 W Main St, I had never heard of BSL until July of 2010 when the Animal Control Officer came to take my two American Staffordshire Terriers or Pit Bulls as you call them. She stated that her male that was intact smelled a female dog that was in heat and jumped out their window and that is when the people called animal control. She stated that both of her dogs were put down and she doesn't think BSL is right. She stated that it was senseless to have so many Pit Bulls that are innocent put down and she understood that some were raised to be vicious but encouraged that it should be the deed punished not the breed.

Terry Lyle, 294 Stare Rd- stated that they support having laws regarding dangerous and vicious dogs but not accusing someone of having a dangerous or vicious dog because of what they look like.

Todd Barnhill, 213 Wilson St- I own a Pit Bull Boxer mix and believe that Pit Bulls should not be judged on their breed but instead their individual actions. I believe that this Council should listen to the citizens in regards to this law and that at the last meeting no one came forwarding wanting the law to stay the same. He suggested that the vote be delayed to allow the entire city to be represented or put it on the ballot to allow voters to decide.

Tammy Mitchell, 26 E Channel St- the reason that I think the BSL is ridiculous is because good people who are taking care of their dogs are the one's getting jail time, fines, and first degree misdemeanors on their record. She compared the fines and jail time she and her son got for their Pit Bull getting out of the yard to those of the guy who mutilated the Pug. In support of the BSL being repealed.

Annette Spohn, 51 Bowers Ave, she owns a Boxer and stated she would like to own a Pit Bull but can't afford to due to the our regulations. She stated that she spoke to Jay Hottinger via a text message which she stated he gave her permission to share. The message she read: Good Luck, common sense would dictate that legislation should not be breed specific but dog specific. There can be vicious Pit Bulls and mild Pit Bulls. Likewise there can be vicious Labs, Retrievers, Terriers, etc. and mild ones. It has more to do with how they are raised, trained and cared for in their environment than their genetic disposition. She encouraged Council to change the laws like the state and other cities have done.

ORDINANCES ON THE SECOND READING

By: Mr. Rath, Mr. Marmie

15-04 AN ORDINANCE AMENDING CHAPTER 618 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO REGARDING BREED SPECIFIC VICIOUS DOG DESIGNATION

Motion by Mr. Rath to adopt Ordinance 15-04, second by Mr. Marmie

Mr. Rath- two weeks ago I made a motion to table this issue because of the out pouring and outcry from the citizens of Newark

Mr. Guthrie- Mr. Rath do you have a motion, you really should make your motion.

Mr. Rath- do we not discuss the issue that I made a motion to adopt

Mr. Guthrie- Mr. Law Director shouldn't there be a motion on the floor?

Director Sassen- there is a motion to adopt; he can speak to the motion to adopt.

Mr. Guthrie- is that what you are speaking to the motion to adopt; you're not making a motion to table?

Mr. Rath- my intention is to make a motion to table but I thought that I could justify that before I did, is that appropriate Mr. Law Director?

Director Sassen- you would have to ask the President that question

Mr. Guthrie- go ahead

Mr. Rath- as I was saying, two weeks ago I thought that it was important to have this issue voted on by all of Council and that is why I made a motion to table this two weeks ago. I still believe that. I made the statement two weeks ago that I would make the motion to table again and I am going to stand by my word and do what I said I was going to do. I think this is an issue that does need to be voted on by all members of Council and for that reason I will make the motion to table this until March 16th.

Motion by Mr. Rath to table Ordinance 15-04 until March 16th, second by Mr. Rolletta

Motion to table passed by a 9-0 vote.

Mr. Rath- point of order, I don't think that it is appropriate for the President of Council to vote in this roll call.

Mr. Guthrie- I will yield to the Law Director on that

Director Sassen- when the President Pro Tem is presiding over the meeting our rules permit that person to vote.

Mr. Rath- my apologies.

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

15-05 AN ORDINANCE AMENDING THE POSITION AUTHORIZATION TABLES OF THE CITY OF NEWARK DEPARTMENT OF PUBLIC SAFETY, DIVISION OF POLICE, REDUCING THE POSITION OF CAPTAIN BY ONE (1) THROUGH ATTRITION RESULTING IN A STRENGTH AUTHORIZATION OF THREE (3).

Motion by Mrs. Floyd to adopt Ordinance 15-05, second by Mr. Cost

Mr. Rolletta- I would just like to express my thoughts on this proposal. I am being told that this proposal is necessary to put additional police officers on the street. I heard it from the Administration and I read it in an opinion piece from the Advocate's Editorial Board. The truth is there have been opportunities to hire officers from money saved from retirements and resignation and those positions remain unfilled. Now we are being told to eliminate a Captains position and to be honest I am not buying it. I truly believe that if our Police Department is properly staffed with enough officers than this Captains position would be needed. I think the better approach would be to keep the Captains position in order to shift some administrative duties away from Patrol Sergeants so that they could spend more time out on the streets assisting with calls for service and other patrol duties. That all could be done without eliminating a position in our Police Department and that could be done today. I think that it is important to remember that if this proposal is passed it doesn't mean an additional officer will be out on the street tomorrow, it would be a matter of months before the new officer would have the training he/she needs to be ready for patrol duty. It is obvious our officers need more manpower on the streets today so I will be voting against this

proposal and I urge others to do the same.

Mr. Guthrie- in the 5 years that I was Council President I tried to avoid passing the gavel but I was prepared to speak on this issue tonight so that is what I am going to do. I am going to pass the gavel to Mr. Bubb and once I do he will preside until the Clerk calls the roll for a vote.

Mr. Guthrie- I am going to vote no tonight on Ordinance 15-05 and I would like to take a minute or two to share my reasoning. To start with we have only been assured by Safety Director Spurgeon that one patrolman will be hired if we agree to eliminate the Captains spot. With all due respect that is giving us the position that we budgeted for this year barely a month ago. We are soon losing a good Police Chief. According to Chief Sarver in 2010 we had 65 Patrol Officers while today thanks primarily to leadership at the State House which is not as concerned about the safety of our communities as we are, we are down to 54 Patrol Officers with the same number of Supervisors, one Chief, 4 Captains and 11 Sergeants. We currently have a vacancy for a Chemist in the Police Lab that may not be filled. The entry level wage for that position is actually higher than the entry level Police Officer. Let's consider removing the Chemist from the Table of Organization and hiring a front line Police Officer with the dollars budgeted for the Chemist position. With the departure of Chief Sarver we have a golden opportunity to consider restructuring the Police Department. Generally there is merit to eliminating a Captains slot however it should be done as part of a restructuring that should result in more Patrol Officers on the streets of our city. Some might suggest that City Council should not be fully engaged in the restructuring of the Police Department however it is important to keep in mind that this Council is charged with the responsibility of creating and eliminating positions in Section 3.07 of the City Charter. I am voting no because I think now is time to slow down and consider a restructuring. Let me suggest one possible direction. Consider the merits of only having one or two Captains; this could be achieved through attrition. As Captains advance or retire they could be replaced with Lieutenants. In time 4 or 5 Lieutenants positions could be created and the number of Sergeants which is currently 11 could be reduced to 7 or 8. Such a restructuring should include a round table discussion by representatives of the administration, Police leadership, two members of Council and those impacted the most the Officers who protect our City. The goal of the well thought restructuring should result in more Officers on the street which is most crucial. More opportunity for advancement for our Police Officers which in my opinion will improve morale at the department and allow us to retain a department of dedicated Officers. Almost every human resource study shows that having the opportunity to advance is a crucial ingredient to having a productive workforce. If we work hard at a well thought restructuring and if we work together with input from all parties I think we can even save some money which is paramount in our current environment primarily because of the cuts by State Government. Please join me in voting no so we can move promptly toward a comprehensive restructuring that values the input of all parties with a goal of improving public safety for our citizens. Mrs. Floyd and Mr. Marmie could act quickly to appoint two Council Members to work with the Mayor and the stake holders to achieve a sound restructuring. We can do this if we look at ways to make it work instead of focusing on how we can deep six the entire concept.

Mr. Marmie- a lot of what we do in our position like Mr. Guthrie has indicated is we make decisions as far as creating, and eliminating of positions. The administration in my opinion has done a great job of determining the need for this change due to a couple of things that Mr. Guthrie eluded to which is the financial environment we are in regarding our budget. There are a number of factors that come into play as to why we are in the situation we are in when it comes to the funding of our safety forces. Personnel costs are the largest expense or investment however you look at it. I look at it as an investment towards our safety forces and we make sure we are doing our best in the distribution of those funds in the most efficient manner. More badges on the street are definitely the goal I have for the citizens of Newark. I am a firm believer that is the goal of the administration. Can they get to a number or be held to a specific number, I think they have done a good job saying they are attempting to get to that but just like we didn't know that the budget cuts from the state were coming, just like we didn't know that the pay increases were going to be where they are two years ago. We can't make promises that we don't know we can uphold so I think that they are doing their best working towards that and striving towards that to have as many badges and boots to protect our citizens. They are making decisions on a daily basis along with our support and assistance in making sure the safety of the citizens is first and foremost. I am in support of this move because I think that it is a move in the right direction in making sure we are fiscally responsible and doing the best we can in making sure we are putting as many dollars

in the salaries of the police officers and numbers of police officers where we need them the most which is protecting citizens, answering calls and all of the duties that are required to make sure our community is safe. I am in support of this move and I would urge everybody to do the same.

Motion to adopt Ordinance 15-05 passed by a vote of 6-3 (Mr. Guthrie, Ms. Hall, Mr. Rolletta)

Mr. Bubb passed the gavel back to President Pro Tem Mr. Guthrie

RESOLUTIONS ON THE SECOND READING

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

15-07 APPROPRIATING MONIES FOR THE MUNICIPAL CORPORATION

(623, Water Projects Fund: \$81,980.81; 621, Water Fund: \$16,915.34; 100, General Fund: \$1,300.00; 665, CSO Sewer Projects Fund: \$72,000.00)

Motion to adopt Resolution No. 15-07 by Mr. Marmie, second by Mr. Cost

Motion passed by a vote of 9-0.

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

15-09 APPROPRIATING MONIES FOR THE MUNICIPAL CORPORATION- CI

(335, Capital Improvement Fund: \$32,000.00; 335, Capital Improvement Fund: \$13,500.00; Capital Improvement Fund: \$46,000.00)

Motion by Ms. Hall to adopt Resolution No. 15-09, second by Mr. Cost

Mr. Marmie- I am not going to vote in support of this resolution. It is not to say that we don't need items such as the ones on this resolution however I feel that we really need to make an extended effort to make sure the majority of our capital improvement funds go towards road improvements and making sure that the paving dollars are there and looking at the predictions as far as the numbers going towards paving dollars. I don't feel it is where it needs to be to even maintain the current level and we will fall even further behind without this therefore I will not be in support of this.

Motion passed by a vote of 8-1 (Mr. Marmie).

RESOLUTIONS ON THE FIRST READING

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

15-10 A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO SUBMIT AN APPLICATION TO THE OHIO DEPARTMENT OF PUBLIC SAFETY FOR AN AWARD OF FISCAL YEAR 2015-2016 FUNDING UNDER THE OHIO EMS TRAINING AND EQUIPMENT GRANT PROGRAM.

Held for a Second Reading

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

15-11 APPROPRIATING MONIES FOR THE MUNICIPAL CORPORATION- EXPEDITE

(298 ODNR Fund-\$3,801.00: Recreational Items)

Motion by Mr. Marmie to waive the two day reading rule on Resolution No.15-11, second by Mr. Bubb

Mr. Marmie- this needs to be expedited because they need to get this work completed as soon as possible

Motion passed by a vote of 9-0.

Motion by Mr. Marmie to adopt Resolution No.15-11, second by Mrs. Floyd

Motion passed by a vote of 9-0.

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

15-12 APPROPRIATING MONIES FOR THE MUNICIPAL CORPORATION

(100 General Fund-\$15,880.00: Machinery & Equipment)

Held for a Second Reading

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

15-13 A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO APPLY FOR FINANCIAL SUPPORT FROM THE STATE OF OHIO 2015 NATUREWORKS GRANT

Held for a Second Reading

By: Mr. Cost, Mrs. Floyd

15-14 A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACTS, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR VARIOUS CONSTRUCTION PROJECTS.

Held for a Second Reading

COMMENTS FROM CITIZENS

Brian Tackett-620 Forry Ave, he stated that we the people do matter that they will be voting and are not going away and neither is this issue. He asked that Council take their time and review the issue and to be fair to everybody.

Michelle Porter- Rock Haven Rd, I am outside of the city limits so this doesn't apply to me but I am here because it is an important issue and everybody important to me does live in town. A lot of the people who are afraid of Pit Bulls don't have any experience with Pit Bulls. Any of you who would vote no against this issue I would challenge you to go and meet some of these dogs and see what they are like. They are not vicious dogs. Most of these people are responsible dog owners that control their pets and they shouldn't be penalized because of people who don't. All you are really doing by opposing it is ensuring that these people who are out here week after week that care about this are not going to vote for you. This should not even be a discussion. I don't live in the City of Newark because of laws like this. I don't want someone telling me what kind of dog I can have. I am sure there are other people who won't move here either because of these laws and people who move out for the same reason.

MISCELLANEOUS

Mr. Guthrie- I have a great deal of respect for everybody's opinion on the dog issue and I give those who have been here week after week a lot of credit for being respectful and orderly. We really respect your right to come in here and express your opinions. I did want to mention that Mrs. Floyd and I went to a magnificent performance on Saturday night at the Midland. The star of the Phantom of the Opera was here and it was sad because we only had about 20% of the seats filled. It was an outstanding performance.

Ms. Hall- called a Capital Improvement meeting.

Mr. Marmie- called for a Finance Committee meeting and shared with Council that the Newark Catholic Athletic Association sent a thank you note thanking this Council and the City of Newark and the administration for the donation that they received from the bed tax for the holiday basketball tournament which they brought in outside teams who supported the community in the way of rentals of hotel rooms and frequenting restaurants while they were here for the two day tournament. They wanted me to pass on their thank you and appreciation for that. I want to thank Director Rhodes he is definitely trying and has listened

as far as my concerns about Capital Improvement money. He did share with me that for the one item on the agenda for today the pumps at the Hollander Pool, he said he may be able to get some grants to pay that money back. He wasn't going to promise but said he would try. I do appreciate his efforts. I really do appreciate everyone who is here speaking passionately about what they believe in and what they wish for this community. Some of the subjects that are brought up are definitely things I have thought about. The number of dog owners on that list of dog bites which occurred, the number of them that weren't even on our dog license list is incredible. I think that it is irresponsible dog owners that create irresponsible dogs. He relayed a story about a German Shepard Wolfe mix that he and his family owned when he was a kid when they lived on Beacon Road.

Mr. Rath- congratulations to Captain Simmons, we welcome him as the new Assistant Fire Chief. I want to say something to all of the people who are here that opposed to the dog ordinance and I want to say the same thing to those here in support of this ordinance from my heart I apologize to you. I know tonight some of you would have been here anyways but I know some of you went through hardships to get here tonight. Had this issue been tabled two weeks ago like I wanted it to your attendance tonight would not have been necessary. So I apologize to you for having to take another night out of your life to come out here and an issue you are so dedicated to. Mr. Tackett I appreciated everything you had to say and thought you were spot on. For those in politics anybody who is close to me knows that one of my favorite sayings is please don't confuse me with the facts. I have a petition up here signed by 1032 people. While the majority of people who signed the petition are from Newark it amazes me that there are literally people on here from all over the world. I am out in the community a lot and I talk with everybody I see and I don't have to bring up the dog issue they come up to me and talk about it and I haven't had one person come up to me and tell me they oppose this. Quite honestly for somebody to tell me that it is the democratic process to take this to the voters is in my mind flat out lazy because we took this to the voters. I took this to the voters' just over a year ago and I took it to the voters just over 5 years ago. 5 years ago they said yes we want Jeff Rath to represent us, a year ago they said yes we want Jeff Rath to represent us and that is what I am doing. I am sitting her representing you and I am going to cast a vote on this based on what I believe is the best for the City of Newark. I am not going to shun it off to you to go out and do more work, more effort and more research and get hundreds of signatures on petitions signed just so that we can take a vote from the City of Newark who really if they don't have a dog in the fight they don't know what they are voting on. It is up to us to educate ourselves on the issues and cast a vote on this based on what we believe is best for the City of Newark. I appreciate all of your dedication. I am going to ask you to come back one more time. I want to ask you to keep giving us facts but if we won't vote on the facts then start giving us some stories maybe pull on our heart strings. If all of the facts that have been presented don't sway a vote then start pulling on our heart strings. I don't know what else to do. Thank you guys for coming.

Mr. Rolletta- I just would like to congratulate Assistant Chief Simmons.

Mr. Bubb- first I would like to thank Service Director Rhodes. Many city employees have been working around the clock to keep the roads clear; I know it was a little bit of a challenge yesterday with a Federal Holiday. I would also like to congratulate Assistant Chief Simmons. Finally I would like to highlight a few happenings in the City of Newark. It is my understanding that the lofts about Argyle Photography were full within a week. It is a redevelopment and it is very impressive. Congratulations to Liz Argyle. I had a chance to tour the Subway next to the Chop House restaurant, the glass was in last week and it is quickly transforming into a state of the art building. They are going to be open within the next month. I was also at the Trout Club last week. If you haven't been up there you need to stop up it is also turning into a state of the art building. I was conversing with the owner and I wanted to relay this to the Mayor and also to Director Spurgeon, he said he was happy with the relationship he has had with Building Code and the Fire Department. Appreciate your leadership with that and brining those relationships together after they were hurt a few years ago.

Mr. Cost- called for a Service Committee Meeting.

Mr. Guthrie- February 28th is the Kiwanis annual pancake breakfast. It is going to be at the Grove by the River owned by Goodwill. It is such an important event that supports Camp O Bannon. I know it starts at 7:00 and goes until 1:00 or 2:00.

ADJOURNMENT- Motion by Mr. Rath, second by Mr. Bubb to adjourn. Motion carried by acclamation. 8:32 P.M.