

COUNCIL MINUTES

October 6, 2014

Council Chambers

7:00 P.M.

7:00 P.M. - President Ellington called the October 6, 2014 Newark City Council Meeting to order.

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

INVOCATION – Mr. Johnson

PLEDGE OF ALLEGIANCE

CAUCUS

MINUTES- September 15, 2014 Motion by Mr. Rath, second by Mr. Cost to approve the minutes of the 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.**

APPOINTMENTS

Mayor Hall is reappointing Sue Spiker, Stuart Moynihan and **Gary Burkholder** in place of Mark Schaff to the JEDZ2 Board. Their terms will begin October 20, 2014 and will expire October 19, 2016. – **Vote of 5 Yeas (Mr. Rolletta, Mr. Bubb, Mr. Guthrie, Mr. Marmie, Mr. Rath) and 5 Nays (Mr. Blake, Mr. Cost, Mrs. Floyd, Ms. Hall, Mr. Johnson)**

President Ellington voted yea to affirm Mayor Hall's appointments to the JEDZ2 Board.

REPORTS STANDING COMMITTEES

Finance-**Received & Filed**

Service- **Received & Filed**

Capital Improvements- **Received & Filed**

REPORTS OF CITY OFFICIALS

Barb Jobs, City Tax Administrator- Income Revenue Report for the period ending September 15, 2014- **Received & Filed**

Barb Jobs, City Tax Administrator- Income Tax Revenue Collections Reports for the period ending September 30, 2014- **Received & Filed**

COMMUNICATIONS

Paul Moran- his written statements from the City Council meeting on September 15, 2014- **Received & Filed**

Ohio Division of Liquor Control- transfer application from Garlic Rose Eatery to Marie Renee LLC- **Received & Filed**

Utilities Superintendent, Roger Loomis- liens for past due water, sewer and storm water bills- **Received & Filed**

Ohio Division of Liquor Control- new application for 85 E Main St Ohio Banquet Ventures LLC, dba The Skylight- **Received & Filed**

PUBLIC HEARING

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

14-18 AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY, GENERALLY DESCRIBED AS 398 EASTERN AVENUE, CITY OF NEWARK, LICKING COUNTY, OHIO, FROM THAT OF SINGLE-FAMILY RESIDENCE – RH HIGH DENSITY ZONING DISTRICT, TO GO – GENERAL OFFICE ZONING DISTRICT.

President Ellington opened the public hearing and the notice of the public hearing was read.

President Ellington asked for public comments either for or against the issue.

Emily McKinney- I am an attorney with Reese, Pyle, Drake and Meyer and I am here on behalf of Licking Memorial Hospital. Generally we would just like to say the lot is contiguous to a lot owned by Licking Memorial and if it changes to General Office zoning it will just be used for overflow parking.

Public Hearing was closed after no further comments were received

Motion by Mr. Cost to adopt Ordinance 14-18, second by Mr. Rath

Mr. Cost- I would like to go on record as being supportive of this legislation however I would like to ask that the Engineer's office give consideration for a fence around that property. I think that it is a situation where it could serve the people on both sides of the fence. It could help protect residential properties from vehicles driving onto their property and the safety of children or people in the residential area. It could also keep the neighborhood from parking in their parking lot that they are putting in. I think it is one of those instances where a fence could be a positive aspect for both parties and that would be my recommendation to the Engineer's office for this piece of legislation.

Motion passed by a vote of 10-0.

COMMENTS FROM CITIZENS

Richard Westbrook-276 Pierson Blvd, he spoke about what he called the blunders of our City government. One of them he cited was that we didn't get the Mastodon that was discovered at the Burning Tree Golf Course here in Newark so it could be on display and hopefully generate tourism in Newark. He also mentioned how a parking lot and little park were put in after the auditorium theater on the east side was torn down. The last item he cited was the downtown renovation project.

Lloyd Trickle- 388 Mt. Vernon Rd, stated his complaint was that he felt the City was picking on him about everything that he owned. He stated that his health problems are preventing him from maintaining his properties. He stated that he had come down to City Hall to talk to Joe Paul but that it hadn't made a difference. He stated that he had been fined on three or four different places and been given 30 days to get the maintenance done.

Dale Sturgle- 606 Euclid Ave, his complaint was regarding the pot holes in the streets and that they are not going to be repaired until next year. He also complained about the city collecting a license plate permissive tax to fix the streets but the money has disappeared. His last complaint was about the downtown renovation project with the round a bouts.

Nancy Welu- 7411 Stewart Rd, thanked Director Mauter for trying to stay on top of getting the annual report from Don Eager with Fair Housing that she asked for in June. She encouraged the City to find someone who would do more justice to the Fair Housing program who we awarded the contract next. She informed Council that Mr. David

Farmer who resided at Washington Square Plaza and attended several Council meetings where he shared his caricatures had passed away.

ORDINANCES ON SECOND READING

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

14-25 AN ORDINANCE VACATING A PORTION OF MARKET STREET, A PORTION OF A 16.5 FOOT WIDE ALLEY, AND A PORTION OF A 24.75 FOOT WIDE ALLEY AS SHOWN ON THE PLAT OF THE P.M. WEDDLE'S ADDITION, AS RECORDED IN PLAT BOOK 2 AT PAGE 128 OF THE LICKING COUNTY PLAT RECORDS, LOCATED SOUTH OF WEST MAIN STREET AND WEST OF SOUTH 5TH STREET.

Motion by Mr. Johnson to adopt Ordinance 14-25, second by Mr. Cost

Motion passed by a vote of 10-0.

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

14-26 AN ORDINANCE VACATING A PORTION OF A 16 FOOT WIDE ALLEY AS SHOWN ON THE PLAT OF THE WILKIN-SMITH PLACE ADDITION, AS RECORDED IN PLAT BOOK 4 AT PAGE 114 OF THE LICKING COUNTY PLAT RECORDS, LOCATED BETWEEN EDDY STREET AND CENTRAL AVENUE.

Motion by Mr. Johnson to adopt Ordinance 14-26, second by Mrs. Floyd

Motion passed by a vote of 10-0.

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

14-27 AN ORDINANCE VACATING A PORTION OF AN 11.54 FOOT WIDE ALLEY AND BEING PART OF THE RIGHT OF WAY ON THE EAST SIDE OF LOT 16 IN WARNER'S ALLOTMENT IN THE CITY OF NEWARK, AS RECORDED IN PLAT BOOK 5, PAGE 10 OF THE LICKING COUNTY PLAT RECORDS, LOCATED NORTH OF DICKERSON STREET.

Motion by Mr. Johnson to adopt Ordinance 14-27, second by Mr. Rath

Motion passed by a vote of 10-0.

ORDINANCES ON FIRST READING

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

14-28 AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF \$4,000,000 OF BAND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING THE COST OF REPLACEMENT OF WATER MAIN AND SERVICE LINES AND ALL NECESSARY APPURTENANCES, INCLUDING BUT NOT LIMITED TO HYDRANTS, VALVES AND FITTINGS

Held for a Second Reading

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

14-29 AN ORDINANCE PROVIDING FOR THE ADOPTION OF POST ISSUANCE COMPLIANCE POLICIES AND PROCEDURES FOR TAX EXEMPT OBLIGATIONS

Held for a Second Reading

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

14-30 AUTHORIZING AND DIRECTING THE NEWARK CITY SAFETY DIRECTOR TO CERTIFY TO THE LICKING COUNTY AUDITOR, THE SUM OF \$131,198.40 INCURRED BY THE NEWARK CITY PROPERTY MAINTENANCE DEPARTMENT WITH RESPECT TO PROPERTY MAINTENANCE VIOLATIONS TO BE PLACED AS A LIEN UPON CERTAIN PARCELS OF REAL PROPERTY SITUATED IN THE CITY OF NEWARK, OHIO.

Held for a Second Reading

RESOLUTIONS ON THE SECOND READING

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

14-75 A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO PREPARE AND SUMIT TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) A FIVE YEAR CONSOLIDATED PLAN AND A ONE YEAR USE OF FUNDS/ACTION PLAN ALONG WITH AN APPLICATION FOR FY 2015 FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CDBG), AS REQUIRED BY 24 CFR PART 91.220, FOR VARIOUS PROGRAMS RELATED TO HOUSING AND COMMUNITY DEVELOPMENT.

Motion by Mr. Blake to adopt Resolution 14-75, second by Mrs. Floyd

Motion passed by a vote of 10-0.

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

14-76 A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION **(100 General Fund-\$6,474.12 Reimbursement for the Summer Youth Program)**

Motion by Mr. Blake to adopt Resolution 14-76, second by Mr. Cost

Motion passed by a vote of 10-0.

RESOLUTIONS ON THE FIRST READING

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

14-77 A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION **(100 General Fund: \$5,000.00- Misc Supplies)**

Held for a Second Reading

By: Ms. Hall, Mr. Blake, Mr. Cost, Mrs. Floyd, Mr. Marmie, Mr. Rath

14-78 A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION **(335 Capital Improvement Fund:\$2,000.00- Traffic Supplies; 335 Capital Improvement Fund: \$4,200.00- Bldg Maintenance/Supplies; 335 Capital Improvement Fund: \$10,254.00- Bldg Maintenance/Supplies)**

Held for a Second Reading

By: Mr. Cost, Mrs. Floyd, Mr. Rath, Mr. Blake, Ms. Hall

14-79 A RESOLUTION IN SUPPORT OF ADMINISTRATION EFFORTS TO COMPEL REPAIRS OF CERTAIN RAILROAD CROSSINGS AND RAILROAD BRIDGES/ROADWAY UNDERPASSES WITHIN THE CITY OF NEWARK AND ENCOURAGING THE PUBLIC UTILITIES COMMISSION OF OHIO TO ACT ON COMPLAINTS FILED IN REGARD THERETO AND TO ASSIST IN COMPELLING REPAIRS THERETO BY THE RESPONSIBLE PARTIES

Mr. Guthrie- asked the Law Director if there was any reason why they couldn't waive the two day reading rule on this resolution.

Law Director- stated that it was up to Council

Mr. Guthrie- If there is no compelling reason why we couldn't this seems to be an example of one we could and I would like to move that we waive the second reading due to the urgency of repairing the railroads.

**Motion by Mr. Guthrie to waive the two day reading rule on Resolution 14-79, second by Mr. Cost
Motion to waive the two day reading rule passed by a vote of 10-0**

**Motion by Mr. Guthrie to adopt Resolution 14-79, second by Mr. Cost
Motion to adopt passed by a vote of 10-0.**

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

14-80 A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION
(153 Compensated Absences Fund: \$9,020.00-Payout for David Priest)

Motion by Mr. Blake to waive the two day reading rule on Resolution 14-80, second by Mrs. Floyd

Mr. Blake- this is for a payout to an employee and needs to be expedited

Motion passed by a vote of 10-0.

Motion by Mr. Blake to adopt Resolution 14-80, second by Mrs. Floyd

Motion passed by a vote of 10-0.

COMMENTS FROM CITIZENS

Richard Westbrook- 276 Pierson Blvd, commented that he asked about the liens Property Maintenance applies to properties and stated he was told it takes years to process those. He asked if there was any way to speed that process

up. He asked about the tax levy for street paving, he asked if the costs were going to increase 1.6 million every year.

Tim Waldron-167 S 2nd St, he apologized for things that he said at the last Council meeting that he heard were offensive to some and shouldn't be said in this venue however he told the truth. He asked that someone on Council use rule 11 to bring up the legislation regarding the downtown renovation project and separate the project for the sewer separation from the round a bout. He feels that the street levy is

President Ellington- the rule is that if it is passed someone on the prevailing side can bring the legislation up in Miscellaneous.

Daniel Crawford-163 S 2nd St, gave his third impeach Obama speech.

We live in an age of hyper-partisanship. As a consequence, this polarization of our politics has produced a gridlocked Congress which appears incapable of conducting the people's business. The President and his most loyal supporters will argue that this

current unproductive atmosphere has more or less necessitated the unilateral actions that he has taken in pursuit of carrying out his agenda. After all, if the Congress refuses to work with him, where's the harm in him acting alone?

On September 9th, an article authored by Andrew Prokop of Vox.com described how President Obama has expanded the powers of his office by way of his decision to act alone where he deems such necessary. In seeking to reform our educational system, the Administration has interpreted a provision in the No Child Left Behind Act meant to promote “[local and state-level] experimentation” to effectively extort reform in exchange for the penalty protections guaranteed thereby. With respect to the Affordable Care Act, the president has acted repeatedly to delay enforcement of inconvenient mandates instead of working with Congress to rectify such. Regarding the debate over immigration, the President's Deferred Action for Childhood Arrivals program unilaterally created a means for undocumented “Dreamers” to seek out a deferral of their deportation and a two year work permit.

Then we have the use of military force. In 2007, then-Senator Obama said “The president does not have power under the Constitution to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation” and that only “[i]n instances of self-defense” should the president act without Congressional advice or consent. How would Senator Obama respond to President Obama's decision to redeploy troops to Iraq and to launch airstrikes both there and in Syria despite the lack of at least an authorization to use force? Do we the people not deserve a debate on any of these matters?

The problem is that this list is just a sample of what the President has elected to do by himself. Moreover, these executive orders aren't entirely unprecedented. What is unprecedented is the current trend wherein a president has felt empowered to sidestep Congress on just about every major issue. Regardless of whether you agree with the purported goals of each individual action, we can not ignore the consequences of permitting this or any president to increasingly circumvent Congress in making policy.

Frustrating as the political process may be, the Founding Fathers did not create the system we have for the sake of political convenience. Nor did they aspire to mold a government which rubberstamped the will of an ambitious chief executive. Rather, they designed this maddening mess for our benefit, for our protection. President Obama may mean well in what he's done, but his actions – bolstered by the expansions of executive powers which preceded him – have done long-term harm to the Republic.

Every day that Congress sits on its hands or embarks on extensive vacations without regard for the need to legislate or even to reign in on executive abuses of power is another day wherein we shift further away from representative democracy. A government by decree is not in the interests of popular sovereignty. Instead, it is to the detriment thereof. I implore you, as representatives of the people of Newark, to pass a resolution calling for Congress to get its act together and stop this freefall into dictatorship.

Lloyd Trickle- he stated his complaint again about the City, Property Maintenance picking on him with regards to his properties.

MISCELLANEOUS

Mr. Blake- Tomorrow starts the first day of early voting. I think that we live in a great Country and we live in a great community and the issues on the ballot are important issues. I can't forget what one of our Presidents sort of referred to, if you look at a single day as a span of a lifetime, the morning being when you are born and the night when you are close to death or older in age those issues are reflected on what we are going to be voting on this year. We have children's services on the ballot, senior services, our Library is going to be on the ballot and our streets are on the ballot. We have a lot of important issues on the ballot so I encourage each and every one of you

to go and vote and make your voice heard. We can kindly disagree but where it matters is voting so I encourage every one of you to go out and vote tomorrow. For those of you watching us on the camera and watching us on YouTube please go vote. Early voting starts tomorrow. I support all the issues on tomorrow, I guess being the liberal Democrat, but I do support them. I support the children services, the seniors issue, the library and the streets. I will go on record saying that. They are all important and I encourage everyone to go out. I also need to call a Finance Committee meeting for Monday.

Mr. Cost- I would like to congratulate Mr. Blake and Mr. Rolletta as being listed as the 20 under 40 from those of us who are way over 40 we appreciate your youthful and energetic leadership and we thank you.

Mrs. Floyd- first of all the square redevelopment, I keep hearing the 18 million dollars. Part of that money is going to go for the water sewer separation and secondly the streets are going to be torn up to begin with and they could have been put back just like they are but the committee decided to try something new. There was a lot of thought that went into it and one of the main concerns was the safety of pedestrians going around the square by slowing down the traffic. I personally think that it will be a good thing for Newark. I think that it will be difficult for some people to get used to; change is hard I believe that. We all like things the way they used to be but they never are. The comments about the streets, we all know that, we all bounce around on them but one thing I think a lot of people don't understand is yes we did raise the license plate permissive tax but we have over 229 miles of street in Newark, with the amount of money that we have available for paving in a year we can only do 8-9 miles of the streets, that is it. That means we can't do very much and the cost of asphalt has gone from approximately \$48.00 a ton to \$70.00 a ton. The levy that we have on the ballot is a .15 percent and it is only on income, only people who are currently working will pay that. People who have retirement income that income is not taxed. The levy will go a long way to increase the amount of streets that could be paved in a year to 15 or so which means that we could get in to a rotation. It would take a while to catch up but we could get in to a rotation so that it isn't 20 or 25 years between the time streets are paved. I would like to mention that our Street Department has done some paving. Our Street Department did some paving on West Main St and it is much smoother. I think we owe them a debt of gratitude. There will a north end block watch meeting this Thursday at the GMP Hall at 6:00 P.M. then at 7:00 the Historic Hudson Association meets in the same room. Saturday there will a Bluegrass festival in block between 3rd and 4th Street from noon to 8:00 P.M. There will be food trucks and drinks that can be purchased. It should be a fun time and hopefully the more that you promote downtown the better off we are. She also called for a Personnel Committee meeting prior to adjournment.

Mr. Guthrie- I voted to put the levy before the people and I will be voting for it. I have been through about 12 or 13 elections and just about every one of my elections my opponents have said that Marc Guthrie has never seen a tax he doesn't like so it would be out of character for me to not support this levy and to support the other levies that Mr. Blake referenced. I do think that we made a good choice by going with .15 on income and it was helpful to seniors by doing that. There is just no doubt that we need the revenue. No matter what my position is on downtown we need the revenue to fix these streets in the rest of our community. I will certainly be casting my vote in the affirmative. I think that everybody on Council knows that the last 33 days have been pretty challenging for me. We got good news today my granddaughter who has leukemia; the team at Children's came in today and said that she is officially in remission though she will be on a regiment of chemotherapy for the next two years her future looks pretty darn good. I want to say how lucky we are to have Children's Hospital 40 miles from our homes. It is number 8 in the country with dealing with pediatric cancer. Their nursing staff and their physicians are as good there as anybody could find anywhere. There are children there from all over the world that in most cases lives are being saved. I also want to thank the Ronald McDonald House, it is unbelievable, what a resource that is for

families. It is the largest Ronald McDonald House in the United States and it does wonderful things for families. I also want to thank caring bridge.org. It is a wonderful website that keeps people up to date on families who are facing health challenges. My granddaughter has had over 5,000 hits on her page in the last 33 days. It is hard to believe a little girl 2 years old could go through more in 33 days than most of us will go through in our lifetime.

President Ellington- I am sure I speak for everyone here wishing her well in her recoveries.

Mr. Johnson- I wanted to mention the ground breaking for the new fire station which was very nice and very wet. It is on its way. I too am going to vote for the income tax levy and I hope that it passes.

Mr. Marmie- Mr. Westbrook I am going to agree with you on something tonight but first I want to disagree. The Burning Tree Golf Course and the park incident; city government had nothing to do with either one of those issues so to call that a blunder of City government is an inappropriate use of the title. Is it a shame, yes but the park was with private money and donation as was the Burning Tree project with the Mastodon? It is a shame about the Mastodon but I kind of like the park down here compared to what it could have been, a parking lot. As far as the round a bouts and the square, I agree with you I still think that we need to be prudent with any kind of funds that are associated with any kind of government entity. When the vote was made Mr. Loomis had not determined which would be the most cost effective manner in order to not only do the sewer separation project but to put it back together in a particular form. Whether that be the storm water utility tax that is being utilized or whether it is private donations that are being supplemented into that I still think that we need to be prudent and conservative with funds when it comes to any money that has any kind of tie to our government and our citizens putting whether it is a storm water utility tax or income tax from the city it is our obligation to do that.

Mr. Waldron, as far as being able to invoke rule 21 I was not on the prevailing side so I can't do that. I voted against it mainly because of financial issues. Sure if we can make anything look better I definitely believe in that however I just believe that during these economic times we need to make sure we are being wise with the spending of our money. Speaking of spending money I am going to go on record as to saying that I am against the street levy. I don't believe in increasing taxes to fix a problem that is basically a priority within our city, we say it is a priority our city our citizens say it is a priority but we don't put our money where our priorities are. If it is a huge priority that our streets and our infrastructure which should be the third priority in any city government. The first two are your police and fire and the third is your infrastructure and if that is a priority than you put your money towards that. In our capital improvements budget a percentage of that which goes towards street paving is not a priority in accordance with street paving. If it were a priority than that percentage would be a lot higher and it would have been for years. We got ourselves into this bind now we are asking who to take us out of this bind, taxpayers. I don't care if it is only .15 percent I don't care if it is a dime it is not the responsibility of the taxpayers to fix a problem that occurred over the past 20 years. It is up to this government entity to fix the problem not money. I am going to agree with Mr. Guthrie, Children's Hospital is a great resource. My daughter too benefited from Children's Hospital. She is so passionate about it that it is her dream to go back there one day and work at Children's Hospital and be a part of their program. That is one of the major goals she has in her life that someday she will be able to give back what those folks gave to her.

Mr. Rath- he stated that he and his wife had dinner with a few ladies they are friends with and that the ladies were raving about Rotary Park and the fitness equipment there. I also want to thank Davis Rhodes and the Street Department for paving the streets on West Main Street. They were horrible but they are better now. I am excited about the Bluegrass festival downtown and I have been talking to people about that promoting it.

President Ellington- the next Committee meeting will be Monday October 13th, it is Columbus Day however the

City Hall will be open that day and Committees will meet at 5:30 P.M. The next City Council meeting is October 20th at 7:00 P.M.

ADJOURNMENT- Motion by Mr. Cost, second by Mr. Rath 8:01 P.M.