

## COUNCIL MINUTES

**February 19, 2013**

Council Chambers

7:00 P.M.

**7:00 P.M.** - President Ellington called the February 19, 2013 Council Meeting to order.

**ROLL CALL**-Mrs. Floyd, Mr. Frost, Mr. Guthrie, Mrs. Loomis, Mr. Marmie, Mr. Rath, Ms. Stare, Mr. Bubb, Mr. Cost

**ABSENT**- Mr. Houdeshell

**INVOCATION** – Mrs. Loomis

**PLEDGE OF ALLEGIANCE**-Jeff Hotchkiss

**CAUCUS**- Mrs. Floyd motion to excuse Mr. Houdeshell, second by Mr. Marmie

**MINUTES** of February 4, 2013-Motion by Mr. Rath, second by Mr. Frost that the minutes of February 4, 2013 council meeting be approved 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.

### REPORTS STANDING COMMITTEES

Finance-**Received and Filed**

Personnel-**Received and Filed**

### REPORTS OF CITY OFFICIALS

**City Auditor, Stephen E Johnson**- operating report for the month ending January 31, 2013.-**Received and Filed**

**City Auditor, Stephen E Johnson**- announcement that the Auditor's office was again awarded the Certificate of Achievement for Excellence in Financial Reporting. This is the 21<sup>st</sup> consecutive year the City's Comprehensive Annual Financial Report (CAFR) has received this recognition.-**Received and Filed**

### COMMUNICATIONS

**Ohio Division of Liquor Control**- transfer of a liquor license from Side Street Corral to Paradise Bound LLC located at 380 Seroco Ave

**Gregory Angelletti**- an email was received regarding his concerns for our children and their safety in the schools. He expressed his suggestions for the possibility of enhancing their safety and protection.-**Received and Filed**

**Ohio EPA**- response received concerning the City of Newark's application to modify our publicly owned Treatment Works Pretreatment Program, which meets the requirements of the 40 CFR Section 403.9(b).-**Received and Filed**

**Linda Lovell**- email received notifying Council of the expected guest speaker David Cobb at the Sparta on Sunday February 10, 2013. He was to be discussing a move to amend the US Constitution to end corporate rule and legalize democracy.-**Received and Filed**

**Ohio EPA Division of Surface Water**- advising Licking County among other jurisdiction that they are considering an application submitted for the ATEX Express Project. They will decide whether to issue or deny a Clean Water Act Section 401 water quality certification for this project.-**Received and Filed**

### COMMENTS FROM CITIZENS

**William Butcher**- 129 W Main St, explained that he witnessed a near accident at the intersection of 5<sup>th</sup> and W Main St; a vehicle about hit an on duty emergency vehicle. He thinks that intersection is an accident waiting to happen and traffic cameras may be beneficial at that intersection.

**James Childers**- 1550 Lemay Dr, was there on behalf of his girlfriend to discuss ongoing problems with theft and drug activity in the Glenwood Apartments she lives in. He stated the management is not addressing his girlfriend's complaints or issues with her apartment. He stated they called Property Maintenance regarding these issues as well; an inspection hasn't been done yet. He suggested that Heartland Bank owned this property and they weren't taking action either. He stated the Police Department has been called regarding people riding 4 wheelers on the street.

**Dorothy Flowers**- 340 Eastern Ave, Washington Square Apartments. She reported to Council that Washington Square was bedbug free and thanked City Council, media, Dave Greene, his wife and Nancy Welu for their assistance.

**Bunny**- Washington Square Apartment resident who wanted to thank Council as well.

## **ORDINANCES ON FIRST READING**

**By: Mr. Bubb, Ms. Stare, Mr. Marmie, Mr. Rath**

**13-03** A ORDINANCE AMENDING THE POSITION CLASSIFICATION AND POSITION AUTHORIZATION TABLES OF THE CITY OF NEWARK BY CREATING THE POSITION OF ZONING OFFICIAL WITH A STRENGTH AUTHORIZATION OF ONE (1) IN THE DIVISION OF ENGINEERING.

**Held to First Reading**

## **RESOLUTIONS ON SECOND READING**

**By: Mr. Rath, Mr. Houdeshell, Mr. Marmie, Mrs. Floyd, Ms. Stare, Mr. Cost**

**13-11** RESOLUTION APPROVING THE RENEWAL APPLICATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT.

**Motion by Mr. Rath to adopt Resolution No. 13-11, second by Mr. Bubb  
Motion carried by a 9-0 vote.**

**By: Mr. Rath, Mr. Houdeshell, Mrs. Floyd, Mr. Bubb, Ms. Stare, Mr. Cost**

**13-12** 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 THE HOLLANDER POOL SPRAY PARK.

**Motion by Mr. Rath to adopt Resolution No. 13-12, second by Mr. Cost  
Motion carried by a 9-0 vote.**

**By: Mr. Marmie, Mr. Houdeshell, Mrs. Floyd, Ms. Stare, Mr. Cost, Mr. Rath**

**13-13** A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES MUNICIPAL CORPORATION. 297, Safer Grant Fund, \$6,041.52 (Fiscal Year 2012 Fire Prevention Grant-Home Inspectors)

**Motion by Mr. Marmie to adopt Resolution No. 13-13, second by Mr. Bubb  
Motion carried by a 9-0 vote.**

**By: Mr. Bubb, Mr. Houdeshell, Mrs. Floyd, Ms. Stare, Mr. Cost, Mr. Marmie, Mr. Rath**

**13-16** A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES MUNICIPAL CORPORATION. 335, Capital Improvement Fund, \$19,000.00 (Request for additional funds for a 5 Ton Roller)

**Motion by Mr. Frost to adopt Resolution No. 13-16, second by Mr. Cost  
Motion carried by a 9-0 vote.**

## RESOLUTIONS ON FIRST READING

**By: Mr. Marmie, Mrs. Floyd, Ms. Stare, Mr. Cost, Mr. Rath**

**13-17** A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES MUNICIPAL CORPORATION.

**(100, General Fund, \$40,004.16-Prosecution Services for Pataskala; 100, General Fund, \$7,000.00 Prof. Services; DISAPPROPRIATION 100, General Fund, \$7,000.00 Wages & Salary; 100 General Fund, \$9,526.00- FY 2012 Local Match 10%; 297, Fire Safety Grant, \$95,260.00 for gear, equipment, training)**

**Held to First Reading**

**By: Mr. Marmie, Mrs. Floyd, Ms. Stare, Mr. Cost, Mr. Rath**

**13-18** A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES MUNICIPAL CORPORATION.

**(665, CSO Fund, \$75,000.00, Prof. Services)**

**Motion by Mr. Marmie to waive the two day reading rule, second by Mrs. Floyd**

**Motion was carried by a 9-0 vote.**

**Mr. Marmie- explained that the project was started last year and the purchase order was closed; now payments to contractors are due.**

**Motion by Mr. Marmie to adopt Resolution No. 13-18, second by Mr. Bubb**

**Motion was carried by a 9-0 vote.**

**By: Mr. Marmie, Mr. Bubb, Mrs. Floyd, Ms. Stare, Mr. Cost, Mr. Rath**

**13-19** A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO PREPARE AND SUBMIT APPLICATIONS TO THE DEPARTMENT OF HOMELAND SECURITY, FOR FISCAL YEAR 2013 FIRE ACT GRANT PROGRAMS, IN SUPPORT OF TRAINING PROGRAMS, EQUIPMENT PURCHASES, FUNDING FOR PERSONNEL, FIRE PREVENTION, AND FIRE SAFETY PROGRAMS THROUGHOUT THE CITY.

**Held to First Reading**

## COMMENTS FROM CITIZENS

**William Butcher**- 129 W Main St, inquired about the insurance building that is beside him that is not being taken care of.  
**Tim Waldren**-167 S 2<sup>nd</sup> St, thanked Mr. Cost for taking care of an issue regarding a fence that they spoke of a couple weeks ago. He stated that someone was down there within an hour to repair the fence. He mentioned that he possibly had a couple of name of people who placed graffiti on a fence.

## MISCELLANEOUS

**Carol Floyd**- congratulated Steve Johnson and his staff for receiving their award they have been given year after year again this year. She thanked the computer club for attending and recording the Council meeting. She stated she was hopeful things would work out to make Council meetings available to citizens who are not able to attend.

**Mr. Frost**- called for a Capital Improvements Committee. He could not comment on the problems that Mr. Childers spoke about with Heart Land bank and Glen Brooke however he suggested that Mr. Childers contact the Code Task Force regarding the drugs and crime. He explained that the Task Force doesn't always call you back but they are pretty good about that. He stated that he has a case against two or three individuals for burglary that may be related to one of the theft issues he mentioned. He stated that he was glad the situation at Washington Square apartments worked out. Regarding Resolution 13-17 a section of that resolution concerns the Law Director's office taking over prosecution for the City of Pataskala and he thinks that is great. He stated it is a good reflection of the quality of work the Law Director and his office does because it is a free market and they could have gone somewhere else for the services but they choose Director Sassen and his office. This will also bring more money into the City.

**Mr. Guthrie**- congratulated Steve Johnson; he was also pleased to hear from Dorothy that the issue at Washington Square was taken care of. He thought that coming to Council may have helped but he feels that the management has improved and are showing real interest in their community. He also thanked the computer club for filming the Council

meeting. He stated that he has discussed this last item with the Law Director to receive council regarding the process and before he made a motion he explained his intentions. He stated that he doesn't want it to be construed as adversarial however he said he would like to see Ordinance 13-03 go back to Committee for further discussion. This ordinance is the one concerning the creation of the Zoning position. He stated that a few items came to light since last week when the Committee took action. There has been questions regarding whether the position is a bargaining position or not. He stated that he went to the website and looked at the contract which he said clearly stated that the City shall meet with the bargaining unit for input prior to implementing changes. The City clearly has the right to create new positions. There is a Zoning Inspector position already in the contract. The position was eliminated when the department was transferred to the County. He stated that he would like to see them meet in a less formal setting than the next Council meeting in two weeks to further discuss this matter. He would like to give administration an opportunity to sit down with the bargaining unit to see if there is another way to create this position not outside the bargaining unit. He feels as though the current job description and the proposed job description mirror each other. He asked that someone on Council second his motion to send Ordinance 13-03 back to Personnel Committee for further review.

**Mr. Ellington-** clarified with Mr. Guthrie that his request is for 13-03 to go back to Personnel Committee.

**Mr. Marmie-** announced point of order. He stated that the ordinance is not on the table tonight therefore the motion to send it back to Committee isn't warranted. He stated that there had to be a motion to bring it to the table, and then at that point they would be at risk to vote for it. The Committee may discuss the ordinance at the next meeting; the Chair simply needs to put it on the agenda. He suggested that if in two weeks there isn't a resolution, they then table it and send it back to Committee. He stated that if a motion was made to bring it to the table and it doesn't pass to send it back to Committee then Council must vote on it.

**Mr. Ellington-**asked the Law Director if that was his understanding as well.

**Law Director-** He did not agree. He said he thinks a motion under Rule 16 to return it to Committee would be considered an extra-ordinary motion and could be something that could be considered at any time. A motion to table, a motion to postpone to a date certain would be one that would be required to be made during the pendency of debate. He did not feel as though this one fit into that, he thinks it would be appropriate at any time.

**Mr. Ellington-** verified whether Mr. Guthrie's motion to table would be correct.

**Law Director-** clarified that it was not a motion to table; it was essentially a request to Council President to send the ordinance back to Committee. He further clarified that it was within the Council President's authority under Rule 16 to send an item back to Committee. He stated that Mr. Guthrie was making a motion that Mr. Ellington as President to send it back to Committee.

**Mr. Ellington-** asked if a motion was necessary

**Law Director-** said it was a vehicle in which to move it forward

**Mr. Ellington-** sent Ordinance 13-03 back to Personnel Committee.

**Mr. Rath-** asked if based on what Director Sassen said, is a Council vote required or is it an act of the Council President.

**Law Director-** answered Mr. Rath, that it is an act of Council President. He provided a more complete answer by stating the rule doesn't really say. If you look at standard Parliamentary procedure you could ask for a vote of Council and expect an affirmative vote of Council. He also thinks that it's within the President's authority since the initial authority is vested in the President to refer legislation to a Committee.

**Mr. Marmie-** asked if the ordinance would come back to Council as a first reading. Mr. Marmie said Rule 16 stated that it had to be a motion and a second.

**Law Director-** explained to Mr. Marmie that what he was reading was for the 3<sup>rd</sup> referral. The legislation could be referred back twice but if it has gone back three times and there is a motion and a second to adopt it can't go back.

The Ordinance will go back to Personnel Committee next Monday to be discussed. No changes can be made to the legislation at that time. If the legislation is amended it has to be done on the floor next Council meeting. Ordinance 13-03 will appear on the agenda as a second reading March 4<sup>th</sup>.

**Mr. Guthrie-** thanked Council president for sending the ordinance back to Personnel Committee. He believes that it allows Council and Administration time to act in good faith with the bargaining unit on this subject. He also thanked the Personnel Committee Chair for taking another look at it.

**Mrs. Loomis-** thanked Ms. Flowers and Bunny for coming forward and sharing the positive outcome from coming to Council and working with Mr. Greene and management. She encouraged Mr. Childers to not give up and that he will see things will get done. She stated that he has done a good thing by coming forward and bringing the drugs and theft to their attention, it was the first time it had been brought to her attention. She also suggested for him to speak to Director

Spurgeon after the meeting. She stated Property Maintenance is a priority to her as well. She agrees that everyone should have a clean and safe environment in which to live. She thanked Director Spurgeon for his guidance and information concerning an issue she had in the 4<sup>th</sup> Ward that morning. She congratulated the Newark Fire Department for the write up received regarding their handling of a fire at the Newark Metropolitan Hotel. She also expressed that she respectfully disagrees with Mr. Guthrie on Ordinance 13-03. In her opinion, the job descriptions don't mirror one another; there is a different idea of what they are doing with it.

**Mr. Marmie-** called a Finance Committee meeting. Congratulated Steve Johnson and his team for their achievement, especially considering the changes that have occurred in his office this past year regarding software, reporting changes and changes in how money is coming in, which he felt was a testament to Steve's leadership and the fine staff in his office. He commented that although he voted in support of moving forward with the Spray Park, he advised that he will be monitoring the project to make sure that there is a return on our investment. He thinks that we have a good thing going at the Hollander Pool and he doesn't want to burden tax payer dollars anymore if we move forward. If we can find a grant that will pay for it or the majority of it he would be in support of that. He stated that he didn't want to see a pull on our General Fund or our Capital Improvements fund. He has already discussed this with Director Rhodes.

**Mr. Rath-** congratulated Steve Johnson and thought the fact that he gave credit to his staff just showed what a great leader he is. He thanked Mr. Amore and computer club for attending to film Council tonight and was hopeful it would work out. Called for a Service Committee meeting.

**Ms. Stare-** thanked Washington Square residents for coming tonight. She told Mr. Childers that she appreciated him coming to Council and making them aware of the problems at Glen Brooke because Council tries to be proactive. If the Washington Square folks hadn't come to Council with their problem it may not have been remedied as quickly as it was.

**Mr. Bubb-** congratulated Steve Johnson and his staff. He also called for a Personnel Committee Meeting to discuss Ordinance 13-03. He then directed his comments to Mr. Childers. He advised him that he was familiar with the situation that he brought up regarding Glen Brooke because he was there last Friday. He stated that he had gotten complaints about the property which he discussed with the bank. He explained that the owner of the property is out of town and not coming back. She sold the property on a land contract and now they are gone. It is very close to going into receivership which means that a management company will come in and remedy a lot of the issues he was talking about. He doesn't believe that they want to be in the landlord business. He stated that he felt relief was on the way.

**Mr. Cost-** thanked citizens for coming forward and making them aware of their concerns. He stated that he couldn't take much credit for what Mr. Waldren said because when there is a problem like the one he discussed with him he calls Director Rhodes and the Director is the one that makes sure that it gets taken care of.

**Mr. Ellington-** thanked the Computer Club crew for coming tonight and that they are doing a trial taping to see how it will work. We don't know where it will be shown or how it will work but we would like to see it on Channel 19. Congratulated Mr. Johnson and his team.

**ADJOURNMENT-**Being no further business to discuss a motion was made by Mr. Rath to adjourn, second by Mr. Frost. Motion was carried with acclamation.