

Service Committee Minutes

Honorable Council
City of Newark, Ohio
June 1, 2015

There was a meeting of the Service Committee in Council Chambers on Monday May 26, 2015 after Finance Committee with these members present:

Bill Cost Jr.
Jeff Rath
Jeremy Blake

Ryan Bubb
Alex Rolletta

We wish to Report:

1. Resolution No. 15-54 a final resolution for the construction of a new interchange over State Route 16 to replace the current at grade intersection with Cherry Valley Rd, lying within the city limits of Newark was considered.

Brian Morehead-this is a final resolution final ODOT for the City's concurrence to move forward with the project. They are planning on putting the project out for bid and they need this piece of legislation from the City to do so.

**Motion by Mr. Rath to send to full Council, second by Mr. Bubb
Motion passed by a vote of 5-0.**

2. Resolution No. 15-55 appropriating the real estate known as parcel # 054-244170-00.000, Newark, Licking County, located at 1091 W. Church St., Newark, Licking County, Ohio; authorizing the Director of Law to proceed with a complaint for appropriation in the Licking County Court of Common Pleas; and declaring an emergency.

Brian Morehead- if you recall I was before you a couple of weeks ago to discuss the acquisition of property for additional right of way for the intersection of 30th St and West Church St and ultimately the storm sewer project also. We had 4 pieces of property that we were interested in. We have 2 of those that have been settled than item number two and three on the agenda here that have not been settled. Item number two in particular we have not gotten a response back from the property owner and item number three the owner lives out of state

and there has been negotiations going back and forth but the negotiations have not closed in time. We need to move forward. We will continue to work the negotiation in hopes of getting that closed but we are coming up on our deadline and we need to move forward.

Motion by Mr. Bubb to send to full Council, second by Mr. Rath

Mr. Rath- could the passing of this legislation motive the negotiation process?

Brian Morehead- possibly

Mr. Cost- what kind of deadline do we have?

Brian Morehead- by June 19th I have to certify to ODOT that all of the acquisitions are complete and the right of way is clear.

David Greene- what happens if the negotiations don't go through

Brian Morehead- we will deposit a check for the fair market value of the property with the courts then there will be some mediation sessions.

Negotiations will go forward but probably 12-18 months later there will be a court case settled if it hasn't been settled by then.

Mr. Guthrie- from a cosmetic perspective the necessary take there cosmetically will those properties be left in good shape?

Brian Morehead- yes both of these are strips along the front of the property so it is really strips that are 5-10 foot wide in the front yard area right along the existing pavement. This won't affect the way we do the project. We will still restore the project the same way. Whatever is torn up will be put back but in 30th St and Church St the pavement does widen so that is the reason for the additional right of way.

Motion passed by a vote of 5-0.

3. Resolution No. 15-56 appropriating the real estate known as parcel #054-242994-00.000, Newark, Licking County, located at 318 N. 30th St., Newark, Licking County, Ohio; authorizing the Director of Law to proceed with a complaint for appropriation in the Licking County Court of Common Pleas; and declaring an emergency was considered.

Brain Morehead- same project, same situation but this is the property that the owner lives out of state and we haven't been able to work out all the paperwork issues at this point.

Motion by Mr. Bubb to send to full Council, second by Mr. Rath

Motion passed by a vote of 5-0.

4. Ordinance No. 15-14 changing the zoning classification of certain real property, generally described as 13.457 acres, more or less, 6th Street, City of Newark, Licking County, Ohio, from that of LI (Limited Industrial) District, to MFR (Multi-Family Residence) District was considered.

Brian Morehead- this is an application for a request to change the current zoning district for the property on 6th St from LI, Limited Industrial to MFR, Multi-Family Residence District. It is our understanding that they want to build apartments there. This is the first step. It gets read at Council then sent to the Planning Commission for a public hearing.

Motion by Mr. Bubb to send to full Council, second by Mr. Rath

Janet Greene- I am a gardener at the 6th St Community Gardens and I am a past member of the board and past president of the board of those gardens and I am wondering if this zoning request is for the entire parcel on which the gardens rest or just for the back part?

Brian Morehead- I believe that it is for the entire parcel they submitted a legal description for the entire parcel.

Mr. Cost- what is the intent or the plan along the way? Do you have any other information?

Brian Morehead- they have not submitted any other plans to us other than the zoning change application.

Mr. Cost- Mr. Rhodes do you have any further information

Director Rhodes- again they haven't submitted any plans and I haven't seen any plans but it is my understanding that we have a donor and he wants to build transitional housing and he wants to give it to St. Vincent De Paul for the betterment of the community that will serve a need that is much needed out there.

Mr. Cost- the city doesn't own this property?

Director Rhodes- no the city doesn't have any rights to it in any way shape or form.

Mr. Cost- so the gardens would be displaced then or have you seen anything final on those?

Director Rhodes- I have had limited conversations and I did go to one meeting at the Second Presbyterian Church because you know the city does support the gardens. We think they have a value to the community and they serve a need. When I became aware that the project was going to move from 5th St to this location I reached out to Councilman Blake to Mr. Greene. We had a preliminary meeting and got all of the players together except the donor he was out of town

that week. That is the one meeting that I went to with the group. It is my understanding that they have held other meetings but I don't know the conclusion that they have come to. Mr. Blake might be able to speak to it a little bit. I spoke to the donor about 7 days ago and their intent is to work with the gardens. What that means I can't speak to. I know this gardening season is fine.

Mr. Blake- I reached out to the current Board President, Tom Hen Shaw earlier today and he did tell me that he and the Board President of St. Vincent de Paul have had negotiations about having the garden where it currently is and having a driveway along the north side of the garden and the transitional housing will be on the west side of the garden. I agree with Director Rhodes we have a very generous donor wanting to provide some assistance to St. Vincent de Paul which is a real need within the community and a value in the gardens so at this point it seems as if this garden season will proceed.

Janet Greene- changing the zoning in the future will change the nature of that property forever. The first phase has 6 buildings, a parking lot and a big driveway. Ultimately the plan is to expand so that it will include the whole lot presumably. We feel many of us who garden there, Mr. Hen Shaw is a very lovely person but he doesn't live in Newark, he is from Chillicothe so he doesn't really understand the history of this plot that has been a garden for decades. We feel that it is really important for the Council to think carefully about this kind of change simply because there are so many other places this kind of development could take place, land that hasn't been worked on and soil that hasn't been improved in the way that this has. We have spent a lot of time improving the soil. It is also important for community gardens to be in residential areas so people can participate. We have talked to the donor about this. The questions for us here are for Council to deliberate carefully about changing the zoning for a piece of land to residential that hasn't been when there could be other places. The Council has so much weight in this decision, much more than anybody else.

Mr. Blake- myself, Director Rhodes and several other people have been meeting with garden board and the St. Vincent de Paul board about this issue. I think that it is just information for the committee to have that the land was originally owned by Tectum which allowed the garden to use it. There was not a binding lease between Tectum and the garden. Tectum donated the land to Mr. Murphy and his foundation and then the development that is going to occur which is going to be over a million dollar development will go to St. Vincent de Paul for their transitional housing. They have to turn people away so this is something that is going to allow them to assist more people. After talking to the garden board and the president of the board for St. Vincent de Paul it seems to be a win

win situation because the garden will be able to continue this season and phase I of the development will be able to proceed.

Mr. Cost- Mr. Rhodes it has been said, phase I how many buildings are we talking?

Director Rhodes-we haven't seen any plans yet. They looked at the South Fifth site, the old school, did civil engineering on it and had surveys done but determined that site wasn't big enough to meet the need of the community so that is how they got on the Tectum site. The first phase they are going to build should line up with the need that is out there and the need has been determined by St. Vincent de Paul and other entities out there with how many transitional housing units are needed in the community. The donor said that he will design them, build them and then give them and ask nothing in return.

Mr. Cost- would there be a possibility that there would be other land that we could find to work with so that we could truly be supportive of the gardens?

Director Rhodes- I think that the donor is going to leave some land there for the gardens. I don't know the final layout or how that is going to exactly work out but he is sensitive to the fact that people have gardened there for years, that the soil has been worked and that the people have a sense of ownership. The reason that I reached out to Mr. Blake and the Greene's after I heard about it was because originally in 2002 Mr. Weiser the Service Director signed an agreement on that property with Tectum and then transitioned an agreement with Denison and the city was out of it then but I felt that we had a duty as an administration to kind of let people know that a change is coming. We reached out and talked about it and of course I told the donor that I was going to do that. His harm isn't to harm anybody his intent is to help the community. Change is hard.

David Greene- When this was proposed and I just want to make you aware of this and other people here it was going to be on the garden itself. Some representatives of the donor met with the board of the garden and they were very incensed that it was decided even though this has become Mr. Murphy's private property that this was something that was replacing something that was very positive in the community with something else that was seen as needed. The garden board and the people who garden don't have any question that there is a need for housing but they do have a lot of concerns about why it necessary to replace something that seems to be and is contributing to the community. I know that there are private property rights here but it is the duty of Council and Elected Officials I think to look out for the public good in every way they can figure out how to do that. Sometimes that means questioning what is being done even if it's someone's private decision to do that. Mr. Murphy with

the board and some representatives of the garden board members' and agreed to not build over top the garden. It is not a simple thing to move the garden someplace else for many reasons. There was an agreement with Mr. Murphy at meeting for possibly having the garden for 4-5 years before building over it. Transitional housing which is proposed is a benefit people need but there are questions about this. Not questions that say those people don't deserve an opportunity to live somewhere or have shelter, there are questions about areas of the city that are harder hit by poverty and what is the plan for development here. What is the hope for a better community? Transitional housing, this has to be proven a little bit in some ways. The garden has already proved itself.

Mr. Guthrie- I certainly appreciate the Greene's points here and I am a strong advocate for the community gardens and I think most of us are. However with saying that on balance when you are talking about community good, number one when you look at the good that this donor has done in other parts of this community it's not likely that this donor is not going to place community good as the highest priority. We can't do conditional zoning; we can't say that the only thing that can go here is transitional housing. At some stage you have to be willing to take people's word. When Tectum gave that land to the Murphy foundation there was probably some tax benefits to doing that even though that was a wonderful thing. Then this foundation has requirements it has to meet with the IRS with the use of that land. It is hard to imagine anything but public good occurring there. At the same time I think as a Council, as a community we need to look down the road. Let's say that the garden can only be there for 4 years during that period of time it is important for us to work together to identify another good area if not multiple good areas because as we all know these community gardens are a major asset to our community and more so to the people who use them. It is a tough decision but I think that the public good here is that we have to look at the donor's track record here and I think that overall it will be a good thing we just have to give it time, have faith and trust folks. We have to know that we are all committed to continuing this effort to expand community gardens in our city.

Mr. Cost- I can't imagine that anyone in this room is questioning the good that the community gardens have done for this community. I think it has been a very positive thing for Newark. I also don't think that we can question that we have a need for transitional housing. I am encouraged to hear that there have been a number of meetings where folks have been able to express concerns back and forth so that Mr. Murphy can understand the importance of the community gardens to the community and on the other side the importance of the housing

as well and see if we can't find a way to coexist. I see a lot of positive coming out of this.

Mr. Marmie- I applaud everyone who is trying to figure out what is best for the community. I agree that we always need to look out for what is best for the community but as the Greene's indicated it is Council's responsibility to vote on the zoning change as the zoning change. Ohio Revised Code clearly states that property owners' rights are first and foremost as long as the zoning conforms to the current zoning that is in that area. The property owner has the right to request a zoning change. In this situation the current property owner right now could put up limited industrial and nothing could be said. They could just say the gardens are gone and we are going to put something up that conforms within Limited Industrial. They are asking for multifamily which in my opinion is a lesser risk of what we would probably want in that area if the property owner decides to develop it in any way shape or form so if we are looking at this as purely a zoning change which is what we should be doing and we look at does it conform to that area which is residential, even more so than the Limited Industrial that it is zoned now. I really applaud the gardens for what has happened there. I am so thankful that it seems that they are working together there to get a win, win situation but as a Council we need to look at it strictly as a zoning change. That is what I am going to be looking at as to whether or not we vote for the zoning change. The Ohio Revised Code says that we can't spot zone, it says we can't specific use zone like Mr. Guthrie indicated. We can't do that. That got us in trouble years back. That is why there is a car wash on Sharon Valley Rd because that was spot zoning. I urge all of Council to look at this as a zoning request.

Motion passed by a vote of 5-0.

Bill Cost, Jr- Chair