

COUNCIL MINUTES

December 4, 2023
Council Chambers
7:00 P.M.

President Harris called the meeting to order

ROLL CALL -Mr. Chute, Mr. Houser, Mr. Labutis, Mr. Lang, Mr. Marmie, Mr. Neely, Mr. Rath, Mr. Rine, Mr. Barker, Ms. Bline

INVOCATION – Mr. Houser

PLEDGE OF ALLEGIANCE - Greyson Ford, 1st grade Par Excellence Academy

CAUCUS

MINUTES of November 20, 2023, Motion to accept by Mr. Labutis, Second by Mr. Barker passed by acclamation

APPOINTMENTS

There are none this meeting

REPORTS OF STANDING COMMITTEES

Finance **Received and Filed without objection**

Service **Received and Filed without objection**

Economic Development **Received and Filed without objection**

REPORTS FROM CITY OFFICIALS

Brandon Fox, Water Administrator - A list of properties being sent to lien for past due water, sewer and storm water bills, totaling \$6,420.80 **Received and Filed without objection**

COMMUNICATIONS

Ohio Division of Liquor Control - Liquor License Transfer from Mindy L. Kelly DBA Saks Market, LLC, 599 E. Main St., to Saks Market LLC DBA Saks Market, 599 E. Main Street, Newark, Ohio

Columbia Gas of Ohio - Infrastructure Replacement Program Rider beginning May 2024

COMMENTS FROM CITIZENS

Daniel Crawford, 163 S. 2nd Street - I haven't been here since the last election so I want to congratulate everyone who won, regardless of the outcome it's a great thing that we sometimes take for granted in this country and have in this country, the ability to speak out and do so without fear of repercussion by a tyrannical government, so definitely something more Americans can take pride in and exercise. Speaking of that, Ordinance 23-59, I'm very curious about that I know it says it's a

moratorium for 180 days. I'm hoping that doesn't become a permanent moratorium, but I think we have to, I know you guys all recognize and respect the will of the people and I'm not sure if it passed with a majority here in Newark, but it was very interesting that Issue 2 passed with a majority in Licking County. I was caught by surprise by that, although I shouldn't be because I know quite a few people on both sides of the aisle that supported that, including a dear friend of mine who passed away about 2 months ago, with whom I used to work, he probably would've been ecstatic if he would've seen that pass and he was like a huge Trump supporter, that doesn't really matter at the end of the day, but he was always very vocal about that, he was also one of those people who would've been excited to see it pass, so I kind of had him in mind watching the election results. This is of course like a bipartisan issue of sorts and I just hope that this is just a temporary moratorium as you guys gather the facts on the regulations I'm looking forward to seeing what's coming next because I think there is a lot of growth potential economically in the area, not just with that, with the Intel project right now.

ORDINANCES ON SECOND READING

By: Mr. Rath, Mr. Barker, Mr. Neely, Mr. Labutis

23-54 AN ORDINANCE AUTHORIZING AND DIRECTING THE NEWARK CITY SAFETY DIRECTOR TO CERTIFY TO THE LICKING COUNTY AUDITOR, THE SUM OF \$612,514.00 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.

Motion to adopt by Mr. Rath, Second by Barker

Motion by Mr. Rath to amend to change the total amount to \$611,364.00, Second by Mr. Barker, Motion to amend passed 10-0

Motion to adopt as amended passed 10-0

By: Mr. Rath, Mr. Barker, Ms. Bline, Mr. Chute., Mr. Marmie, Mr. Neely, Mr. Labutis

23-58 AN ORDINANCE ACCEPTING THE DEDICATION TO PUBLIC USE OF THE STREETS IN WILLOW BEND SUBDIVISION, PHASE 1.

Motion to adopt by Mr. Rath, Second by Mr. Barker, Motion passed 10-0

ORDINANCES ON FIRST READING

By: Mr. Marmie, Mr. Barker, Mr. Chute, Mr. Neely, Ms. Bline, Mr. Rath, Mr. Labutis

23-55 AN ORDINANCE TO MAKE AN APPROPRIATION FOR THE EXPENDITURES OF THE CITY OF NEWARK, OHIO DURING THE YEAR ENDING, DECEMBER 31, 2024 (General Fund) **Held until 12-18-23**

By: Mr. Marmie, Mr. Chute, Mr. Barker, Mr. Neely, Mr. Rath, Ms. Bline, Mr. Labutis

23-56 AN ORDINANCE TO MAKE AN APPROPRIATION FOR THE EXPENDITURES OF THE CITY OF NEWARK, OHIO DURING THE YEAR ENDING, DECEMBER 31, 2024 (All Others Fund) **Held until 12-18-23**

By: Mr. Marmie, Mr. Chute, Mr. Barker, Ms. Bline, Mr. Labutis

23-57 AN ORDINANCE TO MAKE AN APPROPRIATION FOR THE EXPENDITURES OF THE CITY OF NEWARK, OHIO DURING THE YEAR ENDING, DECEMBER 31, 2024 (Grants Fund) **Held until 12-18-23**

By: Mr. Barker, Mr. Rath, Mr. Labutis, Mr. Houser

23-59 AN ORDINANCE AUTHORIZING A MORATORIUM ON THE PROCESSING OR APPROVAL OF ANY APPLICATION FOR CERTIFICATE OF ZONING CLEARANCE, BUILDING OCCUPANCY PERMIT, OR ANY OTHER PERMIT OR APPROVAL REQUIRED UNDER THE ZONING CODE FOR ANY PREMISES THAT WOULD ENABLE THE RETAIL SALE OR DISPENSING, CULTIVATING, OR PROCESSING OF ADULT USE MARIJUANA FOR A PERIOD OF 180 DAYS; AND DECLARING AN EMERGENCY

Motion to adopt by Mr. Barker, Second by Mr. Houser

Mr. Lang - I have some serious concerns with passing what I think is a premature moratorium on applicants for zoning in the City of Newark. At this time there is no application published, anybody who is applying isn't doing so as an adult use dispensary. I think the legislation we've got in front of us has a potential but unintended consequence of impacting our existing dispensaries because the way it's written we just reference adult use dispensaries without it really being defined which I think would encompass medical marijuana. I also think at this time, like I said, there is no application even published, it's going to be 9 months before they even start issuing licenses and I think from the news we saw today the State Senate is making an even bigger mess of this legislation, so I think it's going to be quite some time before anybody is going to be applying for, let alone getting licensed to open up these businesses. I think all we're doing with issuing a moratorium prematurely like this is telling these businesses we don't want you to invest here, which I think is not the message we want to send given the success we've had with the medical dispensaries so far to date. We've got three in the City, as far as I can tell they're upstanding citizens, there's not any crime related to them, they've been a good addition to our tax base. What I think we're going to do with this moratorium if we put it through as we've got it I think we're going to be pushing potential investment away from the City of Newark, it's going to go right next door, if you think it's going to bring problems with recreational use, we're still going to see those problems we're just not going to get the added benefit of the tax base to bolster our safety forces. So, I would recommend we make some changes to this, I think we do need to go back to the drawing board if we are going to put any type of moratorium in place. I would also say, we've got time and we have an existing marijuana

framework that's worked really well. We have a zoning ordinance that limits where these facilities can go. It's a very simple amendment to update that zoning ordinance to include adult use that would limit pretty much to where we've got existing dispensaries without a whole bunch of additional space where they can even go, given the circles we have to draw around our schools, our existing requirement is it has to be at least 1,000 feet from any of our schools. We also have a licensing ordinance that I think should be amended to include adult use. That local ordinance helps ensure that our safety forces get the information from those facilities when they are being set up and we have access to those facilities if we want to do any inspections, things like that. So, I'm opposed to this legislation, and I would urge my colleagues to oppose it as well.

Mr. Houser - Could I ask the Law Director to clarify the definition of adult use.

Law Director Moore - The adult use is in the petition legislation that went through as what would be the potential law before the legislature gets ahold of it and that's the term they use for recreational marijuana. It does not include medical marijuana.

Mr. Houser - I would say, I think that while I agree with Daniel's comment wanting to represent the will of the voter. What Councilman Lang mentioned was there are a lot of unknowns, we don't know application timelines or anything like that with regards to the issue, in light of all those unknowns, at least with the adult use recreational side to hit a pause button just to see what we're going to get down from the State on the issue. I don't think this is going to be something where we set a bad tone out in the community that we are going to have no one willing to invest in the City of Newark in the future, I think there is certainly a market area in Newark that they would want to invest in and I don't think this is going to harm that down the road if it comes out that we ultimately want to lift the moratorium and I'm sure we will and what that looks like, but I don't think this pause in any way is going to harm the long term future investment. That's my opinion.

Mr. Lang - I guess a couple things, I don't see the harm in clarifying the legislation moving forward if this doesn't impact our medical marijuana dispensaries and I think we should amend it to do that. I would also suggest at a minimum we reduce the days, I think when you talk about a 6 month moratorium, that is a moratorium with an intent to eventually ban it altogether. I think it was pretty clear from election night, 55% of the people we are elected to represent said we're okay with this we want to move forward. So, I think we need to respect the will of the voters and putting in place a 6 month moratorium like this, it's going to have a chilling effect because you're not going to be able to make any investments, the licenses that are going to be applied for, there's only going to be 50 that first year and I think if you're going to have dispensaries in Newark you're going to want them to be in that first 50

because those are going to be the most well capitalized, the most upstanding businesses that get on board with those initial applications. I think if you put a 6 month moratorium in place, it's going to have a chilling effect, we're not going to get that first round, we're not going to get the best businesses, trickling down the road maybe we'll get a less reputable business coming in. So, I think we need to be really careful here. **I would like to make a motion to amend this legislation to reduce the 180 days down to 60 days and add a clarifying sentence that this does not apply to any dispensary licensed under the medical marijuana statute.**

Law Director Moore - Can I clarify? First of all, if it's too early I don't think lowering the days doesn't make sense now.

Mr. Marmie - Point of order. Is the Law Director entering into the debate or is she clarifying?

Law Director Moore - Point taken. As for medical dispensaries, it's my understanding in reading the law that they are going to be licensed from the State, they are already in place. Our option then is we have 120 days from the date that license is issued, as under the current law, to pass legislation saying we don't want adult use marijuana being sold in the City. At that point the medical marijuana can either make a request from the State to transfer their license or they can put it to the voters. So, I think medical dispensaries will have an option to get a license whether we want them to or not. So, I just wanted to clarify that.

Mr. Rath - I think firstly, we have discussed and debated this issue to the nth degree when we talked about medical marijuana. We had a lot of compromises at that time, we had a lot of people that had input and we came up with something that appears to be working incredibly well. We have three dispensaries I don't think there is room in the City for any more than that because of the zoning restrictions we have. I would say that instead of pausing and standing by and sending the wrong message, I think what we ought to do is hit the accelerator and amending the legislation that we have currently regarding medical marijuana to also reflect adult use. We have zoning in place that restricts where that is allowed to be done. We have legislation in place putting mandates on licensing, mandating that they inform the police department and give full access. Like I say we've talked about this, discussed this, it's working incredibly well, I don't think there's any reason to reinvent the wheel. I think we need to talk about legislation that is actually going to be beneficial in helping productive businesses stay in the City of Newark.

Mr. Barker - I hear everyone tonight, I hear what everyone is saying. I think, and law Director, you can correct me if I am wrong, but this was brought to attention by our own zoning department and by changing any of this, we're saying to our zoning department, we don't trust what you're recommending and we don't agree with

what the zoning department and the zoning administrator needs to understand. The State's not defined it. I mean it's something to where if this were to get voted down or amended to different days we're basically slapping our zoning department in the face and saying, we don't trust you, in my opinion. Now I have to the end of this month on this Council and so that's how I feel. If we change any of this if we table this, we're telling our zoning department we don't trust you.

Mr. Rath - I think that's incredibly strong language, it's inappropriate. We've discussed this with our zoning department, the zoning department helped shape what we already have in place. For you to say that means to just ignore what they told us before. I think that's inappropriate.

Mr. Barker - Mr. Rath you have that opinion, I appreciate your opinion. I think you are correct on medical marijuana, but as the Law Director has pointed out, this is not medical marijuana and so it is a different item. Yes, it's the same substance, but it's a different use of that substance, it's not medical, it's recreational.

Mr. Lang - You know I would again point out, nobody in the State of Ohio is licensed for adult use, nobody in the State of Ohio has applied for adult use. Anybody calling our zoning department asking for a building permit to build an adult use facility, they have no legal standing at this point to open that. I think there is fear mongering going on because we have December 7th coming and we're worried that on December 7th we're going to be stuck with 27 adult use dispensaries in the City of Newark and that's just simply not the case. I was proposing a reduction in the moratorium because I don't think we need 180 days to figure this out. I think it's pretty simple. We have zoning we can quickly amend it and update it and the dispensaries that come in would be located in the same places that we already told medical dispensaries, that's the only places we want to have those in Newark, not too close to our schools in a medium intensity business district. So, I don't think we need 180 days to figure this out and I think saying 180 days is going to have that chilling effect. So, if we want to push that business to Heath or elsewhere, by all means we should go forward with this moratorium.

Second by Mr. Rath to amend the legislation

Mr. Houser - Can I ask for a clarification, can you restate the amendment?

Mr. Lang - Reduce it to 60 days and add a clarifying sentence that this doesn't apply to zoning applications for the medical dispensary, whatever the State statute reference would be.

Law Director Moore - There is a portion of the legislation in the sections after the whereas and I don't have the legislation in front of me, that talks about it does not allow businesses to expand for purposes of adult use, that would be the section that would pertain top medical dispensaries.

President Harris - Law Director, since this is declaring an emergency, does it require 8 votes to pass instead of 6?

Law Director Moore - Not the amendment, you still need 6 to pass the amendment.

Motion to amend failed 6 against and 4 for

Motion to table by Mr. Lang, second by Mr. Marmie, Motion to table failed 6 against and 4 for

Motion to adopt failed 6 votes for and 4 votes against 7 votes required to pass with the emergency clause

RESOLUTIONS ON SECOND READING

By: Mr. Marmie, Mr. Neely , Mr. Barker, Ms. Bline, Mr. Rath, Mr. Labutis

23-92 APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (\$400.00 -Request funds be appropriated into the equipment supply account from sale of a snow blower thru City auction) (\$260,000.00 -transfer to GF for purchase of land) (\$260,000.00 -purchase of land State Route16 and Dayton Road) (\$16,625.00 -Raise curb boxes for Kokosing paving project)

Motion to adopt by Mr. Marmie, Second by Mr. Lang, Motion passed 10-0

RESOLUTIONS ON FIRST READING

By: Mr. Rath, Mr. Chute, Mr. Barker, Mr. Neely , Mr. Marmie, Mr. Labutis

23-96 A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO TO ENTER INTO AN AGREEMENT WITH THE LICKING COUNTY COMMISSIONERS (LICKING VALLEY WATER DISTRICT) TO SUPPLY POTABLE WATER TO THE VILLAGE OF HANOVER, HANOVER TOWNSHIP AND MADISON TOWNSHIP. **Held until 12-18-23**

By: Mr. Rath, Mr. Barker, Mr. Chute, Mr. Marmie, Ms. Bline, Mr. Neely, Mr. Labutis

23-97 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 2024. **Held until 12-18-23**

COMMENTS FROM CITIZENS

Bill Cost, 1639 Krebs Ct. - After listening to the discussion on the recreation marijuana, I've never heard it referred to adult use, so the other is for kids? I didn't quite understand that. I would think it would be recreational marijuana or medical marijuana. The other thing, years ago, in the dark ages, when this got passed, when we got those sites approved, we promised those neighborhoods that those dispensaries would never be able to sell recreational

marijuana. That was part of the deal. Now, I realize what just went through the State might change that, but somebody is going to come in here, like me, and point that out that was something that was promised to those neighborhoods because that might add a little extra confusion to this and not make this any easier. So, I just thought I would mention that point, you might have to look it up, but memory serves me that we made that promise.

MISCELLANEOUS

Law Director Moore - I just want to say how great the Courthouse lighting was. Well done Spencer, even though it was a little cold, my kids enjoyed it, my husband enjoyed it, so well done.

Mayor Hall - I probably would say the same, some of the best comes out in Newark in December. I think people step forward. Last night the Newark Symphony played at the Midland Theater it was the largest crowd they've ever had, 1200 people with the choirs from Granville and Newark put together. The Heisey Wind Ensemble plays next weekend, we had our Winterland Walk in Downtown on Saturday which was from 1-4, the Midland had 1,000 people sign up for that, so a lot of people in the community make this a better community when we are celebrating the holidays. I want to thank everybody for all the hard work they do. Newark high will have their choral concert on Tuesday, so tomorrow night we'll be at that and enjoy that as well. I want to thank everybody for working hard. One last thing, the last two weeks I was asked to visit Wilson Middle School and I spoke to the whole 8th grade class because they had one student that was in the Readable Program, the whole 8th grade class is in it, they can read at their own level and keep taking comprehensive tests and keep moving, there is 135,000 students worldwide in it and this student at Wilson one month was number 1 out of 135,000, pretty cool. I also congratulated him and his mother and also his teacher, because the teacher would remind him when he was number 2 so that he could work a little harder the next month to be number 1. So I thought there are a lot of cool things going on out there and that kid out of 135,000, that's phenomenal. It's a cool program that even kids at different levels can have common conversations in the classroom, so kudos to Newark School System and that program because we all know how important reading is no matter how old you get or what profession you take, we all have to read, but kudos to that student and Wilson Middle School.

Mr. Houser - I just wanted to say I appreciated the spirited debate we don't get that very often, so I appreciate that.

Mr. Labutis - I just want to congratulate the Courthouse lighting committee and Spencer on a great evening as well. I saw a lot of people attended and I always love that event and it's something we look forward to.

Mr. Lang - I appreciated the spirited debate as well Mr. Houser. I think it was a good discussion. I'm glad we didn't ultimately make a choice that I think would have a chilling effect on some businesses here in Newark. With that said, I don't think it's time to stick our heads in the sand, we do have that adult use coming and I think we need to be prepared for it. So, I don't see any of the zoning folks here, if they read the minutes, I would be happy to sit down and look at our existing zoning for medical marijuana and consider whether we should adopt similar zoning for adult use or consider a different approach for adult use, but I think it's time to start putting that legislation together.

Mr. Marmie - I need to call a Finance Committee meeting. I want to share publicly my condolences to Director Rhodes and his family for the passing of his mother in law and also would like everybody to keep the Stare family, if you did not know, Shirley Stare who sat on this Council recently passed and she was always someone who listened and was open to whatever the discussion was about and it's sad that we lost her recently also. I remember the discussions about the recreational, I don't know if it was a promise that it was never going to be sold in there, I believe it was indicated that recreational was not part of this. It isn't like, it was only medical that was going to be sold in there. I don't know, I'm sure that could be construed that it was a promise that it would never be, but the reason why we said it was not going to be recreational is because it was not legal and that's why we said it was not going to happen. I don't know whether or not we'll allow that in the facility, that's where we need to come up with legislation as far as our zoning and whether or not it would fit in there to have it combined. I know that other States do have combined and have to separate it, there's laws involved in that where it has to be separated, you can't combine the sale of that. So, we have a lot of discussions and decisions to make going down that path. I want to congratulate Spencer, the Courthouse lighting nothing but positive comments throughout the community, it's definitely been a staple in this community and it really came, shined brightly this year. I don't know what it was but it was a buzz about, more than what it has been and so I'm glad that buzz is coming back. The other thing that I think is really helping is the different businesses and things that are opening downtown. Man they just engaged in it and made their own little celebrations and I think it's just going to get bigger and bigger and I really appreciate the work that goes into it. I know it isn't just one day we have to plan for this lighting and turn on all the lights, there's a lot more than that and I appreciate all the hard work that goes into that and am glad that it's a part of our community and the tradition that I remember from way back when I was young.

Mr. Rath - I guess I'll start out with the Courthouse lighting that was awesome. I know everybody complained about the weather being cold. I was delighted with the weather, it was cold, it was very cold, but, it's Christmas and I'm okay with that. That day the temperatures we had, it could be 55 or 60 degrees, I'm just glad it wasn't raining, but the cold, I liked it personally. It was a great event. I have not been able to attend that event in quite a few years mainly because of family being out of town and traveling on Thanksgiving, but it was nice to be able to be here, we had kids with us, our kids, along with a whole pack of grandkids, the absolutely loved it. I know at one point in time when the Grinch came out my granddaughter looked at me and said I don't like him, but I thought the Grinch was a great addition that was pretty awesome. I had the honor of attending the swearing in of 4 brand new Newark police officers today. That's pretty awesome, I loved seeing that, certainly we need to add some more, but that's a good start, very good. I'm sorry to hear about Shirley Stare, I did have an opportunity to serve with her, actually sit next to her and always appreciated her thoughts and opinions and viewpoints on things, so it's sad to hear. I will call a Service Committee meeting for Monday the 18th and as tradition follows I will end with wishing Mr. Waldren a happy birthday on Thursday.

Mr. Rine - I want to echo Mr. Rath on the 4 new officers, I heard Chief McKee on the radio today, he said it's not just a job, it's a career and I agree with that, but I'll go further it's a lifestyle. I've been asked why I won't join the military or the police force, I mean I will if I have

to, but I'm not really for that lifestyle. I also want to echo on 23-59, you know 55% of Newark voted yes on it and 6 out of 7 wards voted yes on it as well, so I agree with the majority that it should go forward. I appreciate the debate, we haven't had that in a while.

Mr. Barker - Thank you everybody for the comments about the Courthouse lighting, it was the 75th year this year so a big milestone. We did have the Grinch as Mr. Rath said, thankful for the Newark police they were able to catch him fairly quickly and he got handcuffed and loaded into the Polaris and run around the square a couple times to show the kids that they got the Grinch. Everything was great, it is not just a one night thing, we have a committee of 9 that I run and we have already started on the 76th next year, so a community tradition that's fully funded by donations in our community, so it's one of those things as Mr. Marmie said that not every community has in this age so, I'm very proud to be leading that and very thankful for those who support it.

Ms. Bline - I've heard great things about the Courthouse3 lighting, I wasn't able to attend due to a family illness, but I've heard great things about it. I just thank you, Mr. Barker, for yourself and for everyone who has input on that. I'd like to thank the storm water department for cleaning and investigating a pretty big flooding issue up on Ridgefield. I appreciate they took the time, I know they have a huge schedule and yet they came out. I just wanted to recognize Armstrong or Tectum I think a lot of people know them as, we met last week and it was really great to hear their thoughts on the community and we were able to toss around some ideas on how to further prosper and secure that end of south Newark. I just appreciate them, I don't think they're watching, but I thank you. The longer I'm here the more I'm listening to fine gentlemen such as the Mayor and Mark Mauter, Brandon Fox, you know we have a great team here and no one does anything by themselves. Certainly our safety forces are fantastic and I'm just grateful for that together that we can work through processes, it's not always easy, but we work through them and I think it's for the best for everyone, so I'm grateful for that.

President Harris - Like Mr. Marmie said about Shirley Stare, she was a kind, caring person, I sat beside her for 4 years and I did go to the viewing and she looked just peaceful laying there and she was quiet, but she had some wisdom. Thanks for the, as President this is the first time we've really had debate, so it was interesting tonight which is all good. I need to start reminding people that January 15th is the Martin Luther King breakfast, so if anyone wants tickets you can let me know. Our next meeting will be December 18th.

ADJOURNMENT - Motion to adjourn by Mr. Labutis, second by Mr. Houser, passed by acclamation

Jeff Harris, President of Council