

TIPP CITY COUNCIL MEETING

TIPP CITY, MIAMI COUNTY, OHIO

JUNE 21, 2010

Council Meeting

President Patrick Hale called to order the regular meeting of the Tipp City Council at 7:38 p.m. The following Councilmembers were present: President Patrick Hale, Katie Black, Bryan Budding, Joseph Gibson, Mayor Dolores Gillis, George H. Lovett, and John E. Kessler.

Others in attendance: City Manager Jon Crusey, Assistant City Manager Brad Vath, outgoing Finance Director Richard Drennen, Finance Director John Green, City Engineer Scott Vagedes, Utilities Director Mo Eichman, City Law Director Joseph P. Moore, and Acting Clerk of Council Marilyn Fennell.

Guests signing the register included: Mike McFarland, Steven Chaney, Pastor Daniel Fullen, Matt Owen, Steve Staub, Susan Drennen, John Berbach, Sonya Lyons, and Scott Brownlee. Reporters Marilyn McConahay, Mike McDermott, and Nancy Bowman.

Invocation and Pledge of Allegiance

Pastor Daniel Fullen of the Good Shepherd Church of the Brethren delivered the invocation and President Hale led the Pledge of Allegiance.

Approval of Agenda

President Hale thanked Mrs. Fennell for filling in for Mrs. Ross tonight and then made a motion to amend the agenda by adding Motion C- a motion to authorize the City Manager to proceed with the waterline replacement as part of the Horton Avenue reconstruction project. Motion was seconded by Mr. Budding and unanimously approved. Mr. Budding moved to accept the amended agenda. Ms. Black seconded the motion and it passed unanimously.

**Adoption of Minutes
Pre-Meeting Study
Session**

Mr. Budding made a motion to approve the minutes of the June 7, 2010 Pre-Meeting Study Session. Mr. Lovett amended page 64, first full paragraph, 5th line from bottom: strike "changes in color or content as proposed by Mr. Gibson" and replace with "variances". Motion was seconded by Mr. Lovett and unanimously approved.

Council Meeting

Mayor Gillis made a motion to approve the minutes of the June 7, 2010 Council Meeting. Mr. Kessler seconded the motion. The minutes were unanimously approved.

**Presentations,
Proclamations, and
Awards**

Mr. Crusey introduced the new Electric Forman, Jerry Gee to Council. He replaced recently retired Don Zerke. He has been with the city for 16 years.

**Ordinances
(Second Reading)
Ordinance 09-10
Sign Code**

An ordinance amending sections 154.101(A) & 154.107(D) of the Tipp City, Ohio Code of Ordinance to modify: the maximum allowable area and height of ground (interstate) signs, definition of interstate sign location, and variance procedure.

Clerk of Council Summary: This ordinance modifies "interstate" signage requirements.

City Manager's Comments: The Planning Board conducted a Public Hearing and adopted a motion at its May 11, 2010 meeting recommending that City Council amend the regulations pertaining to highway signs, to increase the maximum sign area of a highway sign from 120 square feet per sign face to 250 square feet per sign face, and to increase the maximum height of a highway sign from 40' in height to 70' in height with a maximum height variance of 20%. Furthermore Planning Board recommended that the location of which highway signs are permitted be expanded from those properties with frontage along I-75 to those properties within 660' of I-75 right-of-way, including the exit/entrance ramps. Council subsequently discussed the Planning Board's recommendations during pre-meeting study sessions on May 17 and June 7. This ordinance adopts the Planning Board's recommendations, except that the attached maps will identify those properties eligible for a highway sign in lieu of the 660' boundary.

Mayor Gillis sponsored the ordinance and moved for its adoption. Mr. Kessler seconded the motion. President Hale asked for comments. Mr. Gibson asked if this amendment goes far enough. He did not think it did. There has been considerable discussion regarding additional variances and he believed there should be more. He thought there should be more flexibility in the sign code and that should include variances. He was afraid that the City was acting out of fear, fear of litigation or fear of something else rather than work with the City. He appreciated those Council members wanting to protect the City from future court actions. He asked if the amendment went far enough. He said he had heard pro and con regarding this ordinance amendment on whether it goes far enough. He said he would welcome any other comments from the public or business leaders. He said there will be other provisions in the code to be looked at throughout the summer and if we do not establish a variance procedure tonight, we do need to liberalize the sign code a great deal in order to attract the businesses that we need without raising taxes or cutting employment. Mr. Gibson said perhaps this issue can be revisited.

Matt Owen, Tipp City Chamber and Downtown Partnership, commended Council and Planning Board for taking a look at the current sign code regarding the highway signs. The forum held in April was informative and the topic of variances was discussed. He thought the 20% height variance was commendable. He said there is still some concern out there in the business community of the variances that have to do with the actual square footage, 250 square feet is quite large and it will be an issue with the City in the future. As far as the future is concerned, he thought the City was stepping in the right direction. It is important for us to be "business friendly" in the future. He thought it was making a great step and appreciated the work done. Mr. Hale asked what he meant that the square footage would be an issue for us in the future. Mr. Owen said anytime you have businesses that need something done, they are going to react to it and they will come to Council and if it doesn't apply to what they need they are going to ask for it to be amended and changed. Mr. Owen thought the 250 square feet may get us by for the near future and he thought it was a good step forward but there may be a business in the future that will have some requirements that may be beyond the 250 square feet. The Council may have to take a look at it. The feedback from businesses along the I-75 corridor is that this is a good step in the right direction. He said he is taking Mr. Gibson's comments and time will tell.

Mr. Steve Staub, 849 Stonehenge Drive, came forward. He has lived in Tipp City for about 18 years and he has spoken to Council a few times when he had concerns. He said that the changes being made tonight are a good thing. He commended Council on that action but he agreed with Mr. Gibson that it does not go far enough. He thought there were already variances as Menards has 8 signs, including signs that say, "loading and out". Are those not variances? The Arts Council wanted to put up a mural downtown but it doesn't work with the sign code. Variances are needed for that. He gave an example of Franklin, Ohio which has murals all over the town. He said he would like to see murals in our town. Mr. Staub said that won't happen due to the sign code.

There were no further comments. President Hale called for a vote. The ordinance passed 7-0. Ordinance 09-10 was declared passed and President Hale affixed his signature in witness thereto.

Ordinance 10-10
Intervening User fees

An ordinance establishing intervening user fees for a 12" waterline extension on Lightner Road, Tipp City, Miami County, Ohio. (sponsored by President Hale)

Clerk of Council Summary: This ordinance establishes intervening user fees for properties in Miami County connecting to the Lightner Road waterline extension.

City Manager Comments: This ordinance if adopted would create intervening user fees for properties along the north side of Lightner Road in Miami County to connect to the recently constructed water main along Lightner Road. This water main was jointly funded by the City of Tipp City and the City of Vandalia. The intervening user fees established by this ordinance are \$53.50 per linear foot of property frontage.

President Hale sponsored the ordinance and moved for its adoption. Mr. Lovett seconded the motion. Ordinance 10-10 passed 7-0 and President Hale affixed his signature in witness thereto.

Ordinance 11-10
Special Assessments for
curbs, gutters, sidewalks
and driveway
approaches

An ordinance levying special assessments for the construction of curbs, gutters, sidewalks, and driveway approaches in various locations within the City of Tipp City, Ohio. (sponsored by Mr. Kessler)

Clerk of Council Summary: This ordinance authorizes the levying of sidewalk, curb, gutter, and driveway approach special assessments for certain property owners throughout the City of Tipp City.

City Manager Comments: The adoption of this ordinance would levy special assessments for the construction of curb, gutter, and sidewalks completed as part of the 2009 sidewalk program. City Council previously adopted Resolution 31-09 declaring it necessary to construct said curbs, gutters and sidewalks. Affected property owners were sent an estimate prior to construction and an invoice following construction. The assessments set forth in this ordinance are due by the property owner within thirty (30) days after its passage, or, at the option of the property owner, assessed in ten (10) annual installments with an annual interest rate of 3.5%. Otherwise, uncollected assessments will be certified to the County Auditor to be placed on

Resolutions
(one reading required)
Resolution 29-10
Intent to appropriate
temporary and
permanent easements

the tax duplicate. Presently, 8 property owners are on the assessment list at a total of \$2,622.27.

Mr. Kessler sponsored the Ordinance and moved for its adoption. Mr. Budding seconded the motion. Ordinance 11-10 passed 7-0 and President Hale affixed his signature in witness thereto.

A Resolution declaring the intent of the municipality of Tipp City, Ohio to appropriate certain property inside the corporation limits.

Clerk of Council Summary: This resolution declares the City's intent to appropriate temporary and permanent easements for streetscape.

City Manager Comments: The adoption of this resolution declares the City's intent to acquire by appropriation temporary and permanent easements from private property owners for the construction of the next phase of the streetscape project. Chapter 719 of the Ohio Revised Code authorizes municipal corporations to appropriate real estate within its corporate limits for the opening, widening, straightening, changing the grade of, and extending streets. Temporary and permanent easements totaling 0.064 acres are proposed to be appropriated from nine private property owners for the construction of the streetscape project along Main Street at the intersections of Garber, Tippecanoe, and Hyatt. The City attempted to acquire the necessary easements from the private property owners through negotiations. To date, three property owners have signed easements; however, ODOT is now requiring the mortgage holders to sign a release before the easements can be recorded. Unfortunately, due to the time constraints of the grant programs funding the streetscape improvements the City must now take action to appropriate the easements or risk losing its grant funding. This resolution is the first step in the appropriation process with an ordinance authorizing the appropriations also on this evening's agenda.

Mr. Kessler sponsored the resolution and moved for its adoption. Mr. Lovett seconded the motion. Mr. Gibson asked for a clarification on the property owners that have signed off. Mr. Crusey said three residents have signed their easements although we are waiting for the mortgage releases. The City is dealing with some corporations, Speedway, BP Oil, and Shell, some of the larger corporations that may have the property tied up with other property mortgages. Mr. Gibson said the action being taken is mainly based on the timing involved. Mr. Crusey said it is more a timing issue having to get the easements in place by the end of this month or risk losing our grant funding from the Department of Transportation.

There was no further discussion. Resolution 29-10 passed 6-1. Mr. Budding voted no. The resolution was declared passed and President Hale affixed signature in witness thereto.

Ordinances
(First Reading)
Intent to appropriate
permanent and
temporary easements

Mr. Kessler sponsored an ordinance directing appropriations to proceed to appropriate permanent and temporary easements on certain described properties inside the corporation limits and declaring an emergency.

Clerk of Council Summary: This ordinance authorizes the appropriation of temporary and permanent easements from nine property owners for

streetscape.

City Manager comments: This ordinance, if adopted, would direct the Law Director to file petitions for the appropriation of temporary and permanent easements totaling 0.064 acres from nine property owners for the construction of the next phase of streetscape along Main Street at the intersections of Garber, Tippecanoe and Hyatt. The properties have been appraised by an ODOT approved consultant at a total value of \$31,280. The affected property owners were previously notified and offers made. To date, three property owners have signed easements; however ODOT is now requiring the mortgage holders to sign a release before the easements can be recorded. Unfortunately, due to the time constraints of the grant programs funding the streetscape improvements, the City must now take action to appropriate the easements or risk losing its grant funding. Following the adoption of this ordinance the Law Director will file the necessary petitions and deposit the specified amounts with the Court of Common Pleas, which will allow the streetscape project to proceed immediately. This legislation contains emergency language so that the ordinance will become effective upon adoption by Council at the second reading in order to meet ODOT's funding deadline so as not to risk the grant funding for this project. An emergency ordinance requires a vote of not less than two-thirds of the members of the Council per Section 4.15 of the City Charter.

Motions

Payroll Clerk Position

Mr. Lovett moved to fill the position of Payroll Clerk in the Finance Department. President Hale seconded the motion and it passed 6-1. Mr. Kessler voted no.

Set Public Hearing Date-rezoning

President Hale moved to set a public hearing for permanent rezoning of Inlots 4099, 4100 and 4101 on East Main Street to Conservation District/Flood Hazard/Well Field Protection (CD/FA/WP) for August 16, 2010. Mayor Gillis seconded the motion and it passed unanimously.

Horton Avenue water line replacement

Mr. Kessler moved to proceed with the water line replacement as part of the Horton Avenue reconstruction project. Mr. Budding seconded the motion. Motion passed unanimously.

Miscellaneous

There was none.

Citizen Comments

Matt Owen invited the Council members to attend the Antique and Artisan Show on June 26, 2010 in downtown Tipp City. There will be many vendors, entertainment, and the time is 9:00am to 5:00pm.

Councilmember Comments

President Hale thanked Mrs. Fennell for filling in for Mrs. Ross. He thanked Dick Drennen for his 30 years of service to the City and again welcomed John Green as the new Finance Director. He also thanked the Planning Board for their efforts on the Sign Code amendment. President Hale said he appreciated their attendance at the study sessions and meetings.

Mayor Gillis announced that today is the first day of summer. She reminded all that the America In Bloom judges will be in at the end of the month. She encouraged all to attend the Fourth of July fireworks and the Antique/Artisan Show.

Mr. Lovett said he would not be in attendance at the next Council meeting as he will be attending the American Municipal Power Planning Council. He told Mr. Drennen it won't be the same without him and when Mr. Drennen started with the City, he was a senior in high school and Jimmy Carter was President. The City has had a good "run" with him and he has done an excellent job for the City. The return on investments has been superb and the City has been recognized for awards. Mr. Lovett wished him the best.

Mr. Budding invited all that would be watching the broadcast on television to make themselves heard at the meetings.

Mr. Gibson thanked the Planning Board for their work on the sign code and for the citizens that spoke. He wanted the business community to know that the issue of the sign code is not over. It is a step in the right direction and he looked forward to working with the Planning Board and the business community and staff on an overhaul on the regulatory scheme of the City, which was a goal, set by Council for this term. He encouraged all to stay in touch. The proceedings are being recorded by KIT-TV and will be broadcast on the Time-Warner station.

Ms. Black congratulated Mr. Drennen on his retirement and thanked him for his service. Welcome to Mr. Green, congratulations to the electric foreman and this weekend she will be working the Downtown City Partnership booth at the Artisan's show on Saturday. She agreed with Mr. Gibson that the sign code amendment has been a great start but more work needs to be done regarding variances.

City Manager Comments

Mr. Crusey said he has had several opportunities to thank Mr. Drennen recently. This is his final City Council meeting and he recently stated he has attended over 800 Council meetings. Mr. Crusey thanked him for his years of service and he will be sorely missed. It is difficult to find words to describe what he has done for the City. We appreciate his 30 years of service. There was a Refuse and Recycling Pre-Bid meeting this morning and there were 3 contractors in attendance. Bids will be opened on July 7. The Aquatic Center is doing well with the warm weather and is exceeding last year's revenues. Revenue projections will be reported at the next meeting.

Mr. Budding had raised questions about right-turns-on-red at Park Avenue and Hyatt Street a few meetings ago. Mr. Crusey said right turns on red can be established with an engineering study. The cost of an engineering traffic study of both intersections would be \$4,980. The question to Council is whether they wish to authorize such a study. Mr. Budding asked why an engineering study is needed. Mr. Crusey said the Ohio Revised Code says that if you place limitations on right-turns-on-red then that has to be done with an engineering study. He thought the restrictions could be removed with no study, but to establish right-turn-on-red restrictions, you need the study. Mr. Gibson asked if we have a 24-hour No Turn on Red restriction on both intersections. Mr. Crusey said that was correct. Mr. Crusey said these intersections are in the school zone areas, they are there for a reason so he didn't think we would want to totally lift that restriction. If the hours can be limited, it will require a study. Mr. Gibson asked when the restriction was established and was there a study done at that time. Mr. Crusey said he did not know when it was established. The ordinance may have that information.

Mr. Eichman said it may have been when there was an ODOT project done on Hyatt St. from Walnut south to Barbara Drive. Mr. Crusey added that the southbound traffic on Hyatt turning west onto Main Street is not included in the ordinance, even though there is a sign up there. Mayor Gillis said she couldn't see spending the money on the study at this time. President Hale agreed with her. Mr. Vagedes said he would be reluctant to take any signs down without a study due to sight-distance issues as well as truck turning radiuses as well as the school issue.

Adjournment

The meeting was adjourned at 8:24 p.m. on a motion by Mr. Gibson, seconded by Ms. Black, and unanimously approved.

Patrick Hale, President

Attest: _____
Marilyn Fennell, Acting Clerk of Council

