

## Regular

December 7, 2006

2006

Ontario City Council met in regular session on December 7, 2006, in the City Offices, with Council President Dave Metzger presiding. The meeting opened at 7:00 p.m. with the Pledge of Allegiance.

The following persons were in attendance when roll was called: Council members Paul Williams, Dan Zeiter, Bobby Shook, Debbie Konczak, Mark Weidemyre and Charlotte Hellinger; Mr. Metzger; Mayor Kenneth Bender; Law Director Rebecca Thomas; Service/Safety Director Chuck Au; and Clerk of Council Cathy VanAuker. A number of interested citizens were present in the audience.

Mrs. Hellinger made a motion to excuse Mrs. Shrader from this evening's meeting. Mr. Zeiter seconded the motion. At roll call, six members voted Aye, zero Nay, and the motion passed.

The minutes of the regular Council meeting of November 16, 2006 were presented for approval. Mr. Shook made a motion to approve the minutes. Mr. Zeiter seconded the motion. At roll call, six members voted Aye, zero Nay, and the motion to approve the minutes passed.

**PUBLIC COMMENTARY**

After calling twice and hearing no one who wished to speak, the Public Commentary portion of the meeting was closed.

**COMMITTEE REPORTS**

Mr. Shook scheduled a Personnel meeting for Wednesday, December 13, at 4:00 p.m.

Mrs. Konczak reported Finance meetings have been held over the past few weeks to discuss the temporary appropriations for the 2007 Budget. The last meeting will be Monday, December 11, at 4:00 p.m. All of the requests have been discussed and this meeting is to make sure the numbers are correct and to answer any outstanding questions.

Mr. Metzger announced Mrs. Shrader requested a Parks meeting on Tuesday, December 12, at 4:00 p.m.

Mr. Williams, Mr. Zeiter, Mr. Weidemyre, and Mrs. Hellinger had no report.

**MAYOR'S REPORT**

Mayor Bender began with the monthly Zoning report for November stating the fees and costs totaled \$625. The appraised value for one home, garage, deck, and one commercial building was \$984,694.

The Mayor continued his report by cautioning drivers to be careful during the winter weather and with the extra traffic for Christmas shopping. Warning signs have been placed along Route 309 advising drivers to be aware of heavy traffic flow.

At this time, Mayor Bender invited Captain Myers to come forward along with Chief Smith, commenting Captain Myers performed extra duties through the past four to five months and wanted to recognize him for what he did for the City and what he did for the police force.

## Regular

December 7, 2006

2006

Mayor Bender read the following Proclamation:

## Dale S. Myers Day

It is the privilege and the honor of the Mayor of the City of Ontario to recognize Captain Dale S. Myers for his most recent contributions; and

Whereas, Captain Myers was rightfully chosen by the City of Ontario to serve as interim-Chief of Police; and

Whereas, Captain Myers deserves recognition for his hard work and dedication to the Ontario Police Department during this transition period in the position of Chief of Police for the City of Ontario; and

Whereas his professional demeanor and leadership ability has contributed greatly to maintaining the high standards and abilities of the Ontario Police Department and for the City of Ontario; and

Now, therefore, as the Mayor of the City of Ontario, I do hereby proclaim December 8, 2006 as Dale S. Myers Day for the City of Ontario, and I urge all residents of Ontario to remember and recognize the noble and valuable role individuals like Dale play in our community.

In witness whereof, I have hereunto  
Set my hand and caused the seal  
Of the City of Ontario to be affixed  
This 7<sup>th</sup> day of December, in the year  
Of Our Lord Two thousand and Six

Kenneth Bender, Mayor

Chief Smith said, Dale serves a very intricate part of the Police Department. He does a fine job and is very, very deserving of this honor. He fills a very important role. As you can see most of them are here tonight, those that could get away. Dale, I congratulate you, thank you on a job well done.

#### **SERVICE/SAFETY DIRECTOR'S REPORT**

Mr. Au asked Chief Smith to introduce the newest Police Officer. Chief Smith introduced Jon Sigler who was sworn in on his 26<sup>th</sup> birthday, Monday, December 4, 2006. Officer Sigler served several years at the Morrow County Sheriff's Office and four years at the Morrow County Prosecutor's Office. Officer Sigler graduated from the Police Academy at North Central State Technical College and is currently working on his Bachelor's Degree in Criminal Justice. He resides in Mansfield with his wife, Lyvvenia

Mr. Au continued his report on the following:

- A Dispatcher and Patrol Officer are going through the hiring process and they should begin working by the first of the year, leaving one Patrol Officer position to fill.
- The three SUV's have been delivered. One is fully equipped and on the road while the other two should be ready within the next ten days.
- The Lindaire Sewer Project pipe installation is complete and properly working which should alleviate some problems on that side of town. The street repairs will take place in the spring and the lawns will be restored to their original condition.
- Health Insurance bids will be opened tomorrow. Mr. Au and the Auditor will prepare a breakdown of information which will be ready for the Finance meeting on Monday. The bids must be awarded before the end of the year as the current contract expires.

Regular

December 7, 2006

2006

**LAW DIRECTOR'S REPORT**

Mrs. Thomas had no report.

Mr. Weidemyre asked if Ontario has researched the possibility of withholding an employee's sick time as restitution for repayment of criminal offenses. Mrs. Thomas has not looked into that type of situation but will check into it and let him know. That is more of a Statutory situation rather than Charter and she believes that type of repayment could be enforced.

**PUBLIC HEARING**

The Public Hearing portion of the meeting was opened at 7:16 p.m. The Public Hearing is on the rezoning of the property on the east side of S. Lexington-Springmill Road from R-1 Low Density Residential District to OS Office Service District.

The first name on the sign-in sheet was Jim Daubenspeck who declined to speak.

Barry Lewis of 2070 Princeton Street came before Council to say: I've been going to the Planning Commission meetings for quite some time and I keep hearing the same things about, for the good of the community, the rezones, for the good of the City, what good they'll do in the neighborhood to enhance the neighborhoods. I'm here to say I don't understand how those two properties, on South Lex-Springmill Road could enhance anything in the City of Ontario by being rezoned to Office Service. I'd also like to remind Council that a year ago we turned a man down who wanted to put a business in at the corner of Princeton and Lex-Springmill which is the same area that these two houses are in. He was going to put in an Office Service there, I believe an accounting office, and he got turned down. The first house next to the Vacuum business, the man said he had no problems when it was going to be built, didn't want a privacy fence put up, but he was the first one to come in here a few weeks ago and complain about that at Planning Commission and wanted a rezone because people are parking in his driveway. That house and the next house are just disaster areas to start with and if you don't believe me you can look at some of the pictures that we have of the place or drive by and look yourself. I don't see how that is going to enhance the neighborhood at all by rezoning it. What about it being an R-1 residential area and behind it are all single family dwellings. Those are all family homes back there and they're all nice properties. There's not a bad property on Creston and their back yards all run into those two properties. I'm certainly not in favor of it. Thank you.

Barbara Dunham of 60 Creston Road was next to approach Council: I do agree with Mr. Lewis. I live behind one of the properties, which is 69 S. Lexington-Springmill and I bought that property because I love the neighborhood. I plan on living there the rest of my life. I fixed things up and I've worked hard buying this property on my own. With all of these businesses coming in there's no privacy, you're on display for everybody in there. When Honey Puff's went in, for instance, at two, three, four o'clock in the morning the garbage people were coming and there was clang, clang, which woke me up. Then around five-thirty or six o'clock in the morning I heard the beep from people ordering food. That is not pleasant. There are no barriers except trees between there; there needs to be some kind of a barrier if you recommend this. I'm very much against it and I will fight it as much as I can because you are ruining our property values. Like I said, I've worked very, very, very hard for that property, I'm retired now and I don't want to have to buy another place because of what's being forced on me. If you go through with it I would like some kind of a barrier put out there, not bushes like are up on the other properties. I deserve my privacy, I deserve having a quiet place to live. I do a lot in my back yard and I do not want other people coming in here looking over in my back yard watching everything I do. In fact, I have some pictures that I can show you of what it looks like. I do have bushes back there but they're not that much coverage. If you go through with it, I would like a privacy fence which I'm in agreement with, to be maintained by whoever the property owner is there. I can show you the pictures if you'd like to pass around what I have and what I have to look at since all of these businesses went in there. Please, please consider this. You would not want this if this was your home, you're just ruining Creston Road which is a beautiful, beautiful street and we all care about our properties. So, please take this into consideration. Thank you.

## Regular

December 7, 2006

2006

Coming before Council next was Kevin Ackley of 69 S. Lex-Springmill Road who stated: In 1987/1988 we bought the house and at that time there was estimated 4,000 cars a day traveling down Lexington-Springmill Road. I believe the last count was 16,000 cars a day and that was in 1999. As the previous lady, we planned to live there, our house right now is not for sale. The joke in our family is we do not go to Lexington we go to Hawkins and turn around. One of the other speakers tonight brought up spot zoning as far as the corner lot past us. That would be spot zoning. Where we are there is no buffer zone from Business to Office Services to Residential. Even the Mayor tonight stated about the warning signs up on 309. I was going to make pictures but failed to bring them this evening; there's one right out in front here and there's one right down the road: Warning, heavy traffic Lexington-Springmill Road. The Law Director, last time at the Zoning meeting, brought up the fact about spot zoning and needing of a buffer zone. Single family homes was brought up this evening along Creston, there are a lot of single family homes along Creston that have Business zoning right behind them prior to our residence. The lady that lives behind us, I do believe that there should be either a berm, a retaining wall, some type of divider, tree line, something between the end of our property and the back of the Creston property. With the property being over 100 ft. deep that is very feasible as far as Office Services buildings are concerned.

Scott Hamilton of 63 S. Lex-Springmill Road was next to take the floor: The gentleman brought up I was the one who did say I didn't foresee any problems when Vacuum World came in. I did decide to pass on the privacy fence. We share a driveway and you can't run a privacy fence in between the shared driveway, it would stand out like a sore thumb worse than it kind of does already. We have stadium spotlighting against our house, I didn't foresee that either. The old saying, hind-sight is 20/20, I didn't foresee all of these problems happening. Before, when we purchased the house Brian Rogers owned it and we had absolutely no problems. Ever since a business came in right next door with us, shares a driveway with us, it's been nothing but a headache. Thank you.

Approaching Council next was Cara Schmitt of 3625 N. Mary Lou Lane: I do live in Ontario but I represent the owners of the properties, I work for Haring Realty. I'm working with them to go through with this. The two properties that we're talking about, that they're asking for the reduction, taking it to Office Services would take a reduction of intensity of use from the Business District to an Office Service to a Residence rather than have them abutted directly up against Vacuum World or for whoever happens to buy it after them. Obviously, especially for the Hamilton's, like he said, their driveways are open and side by side. They don't have a shared driveway agreement but they're side by side. When someone backs out of this driveway (Vacuum World) they end up in theirs. They are also having problems, they have the garbage truck that comes in early in the morning so that is a problem for them as well. The leg of Park Avenue West and Lex-Springmill Road, the interchange there, in 1999 started out at 26,000 cars, they're just shy of 30,000 cars. You're talking five properties up, that's a lot of traffic for a residence, trying to get out of that property as he stated and turn left is very difficult. I know I wouldn't want my kids to try and come out of there at any time. If they do that and it goes to Office Services, by doing that there is a reduction in the traffic in-and-out of a property as opposed to a business, more than likely you have less deliveries, less noise, less overall impact. The chance of someone else coming in behind them, later down the road, and wanting to go straight to business is pretty good. This at least allows a buffer zone between the residences and these commercial properties. Already across the street, as I'm sure you're well aware of, you have business, you have the Hawkins-Geyers, you have Wappners, so it already existing. This isn't something that isn't going to change what's already facing them straight on. When Regional Planning took a look at this corridor they referred to it as a conflict corridor with predictable large traffic use. They're realistic in their conception on what's going to happen and what did happen on Lex-Springmill. To keep the balance, I think what the owners are asking for is a very sensible approach to what they're trying to accomplish. Thank you.

The Public Hearing portion of the meeting was closed at 7:28 p.m.

## Regular

December 7, 2006

2006

The items of legislation on Council's Agenda were then considered.

## ORDINANCE NO. 06-43

REZONING A PARCEL OF THE SOUTH SIDE OF WALKER LAKE ROAD AND EAST OF BOYCE PARKWAY FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.

Hearing no motion to suspend the rules requiring the reading of Ordinance No. 06-43 on three separate days, Mr. Williams read Ordinance No. 06-43 for the second time, by title only.

## RESOLUTION NO. 06-17

CONSENTING TO THE UNIVERSAL TUBULAR SYSTEMS, INC. URBAN SETTING DESIGNATION REQUEST.

Mr. Weidemyre made a motion to table Resolution No. 06-17 and return it to Economic Development for further review. Mr. Williams seconded the motion. At roll call, six members voted Aye, zero Nay, and the motion to table Resolution No. 06-17 passed.

## ORDINANCE NO. 06-44

REZONING PROPERTY ON THE EAST SIDE OF SOUTH LEXINGTON-SPRINGMILL ROAD FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO OS OFFICE SERVICE DISTRICT.

Hearing no motion to suspend the rules requiring the reading of Ordinance No. 06-44 on three separate days, Mr. Weidemyre read Ordinance No. 06-44 for the first time, by title only.

## ORDINANCE NO. 06-46

ACCEPTING THE PLAT AND IMPROVEMENTS TO TEAKWOOD SUBDIVISION PHASE 1, BLOCKS 1 & 2 TO THE CITY OF ONTARIO.

Mr. Shook made a motion to suspend the rules requiring the reading of Ordinance No. 06-46 on three separate days. Mrs. Hellinger seconded the motion. At roll call five members voted Aye, one Nay vote by Mr. Zeiter and the motion to suspend the rules failed. Mrs. Hellinger read Ordinance No. 06-46 for the first time, by title only.

## ORDINANCE NO. 06-47

AMENDING ORDINANCE 05-04 CONCERNING THE COMPENSATION OF THE AUDITOR AND TREASURER FOR 2007.

Hearing no motion to suspend the rules requiring the reading of Ordinance No. 06-47 on three separate days, Mr. Shook read Ordinance No. 06-47 for the first time, by title only.

## Regular

December 7, 2006

2006

## ORDINANCE NO. 06-48

ESTABLISHING THE COMPENSATION OF THE SERVICE SAFETY DIRECTOR FOR 2007.

Hearing no motion to suspend the rules requiring the reading of Ordinance No. 06-48 on three separate days, Mrs. Konczak read Ordinance No. 06-48 for the first time, by title only.

## ORDINANCE NO. 06-49

AMENDING ORDINANCE 04-06 KNOWN AS THE ORDINANCE ESTABLISHING THE POSITION AND COMPENSATION OF ASSISTANT LAW DIRECTOR.

Hearing no motion to suspend the rules requiring the reading of Ordinance No. 06-49 on three separate days, Mr. Zeiter read Ordinance No. 06-49 for the first time, by title only.

## ORDINANCE NO. 06-50

ESTABLISHING WAGES, SALARIES, TERMS AND CONDITIONS OF EMPLOYMENT FOR NON-COLLECTIVE BARGAINING UNIT CITY EMPLOYEES.

Hearing no motion to suspend the rules requiring the reading of Ordinance No. 06-50 on three separate days, Mr. Shook read Ordinance No. 06-50 for the first time, by title only.

## ORDINANCE NO. 06-52

AMENDING ORDINANCE 06-07 KNOWN AS THE PERMANENT APPROPRIATION ORDINANCE FOR 2006 BY MAKING AN ADDITIONAL APPROPRIATION FOR THE GENERAL FUND, 25% STREET CONSTRUCTION & MAINTENANCE FUND AND WATERWORKS FUND.

Hearing no motion to suspend the rules requiring the reading of Ordinance No. 06-52 on three separate days, Mrs. Konczak read Ordinance No. 06-52 for the first time, by title only.

At 7:35 p.m., there being no further business to come before the meeting, the same was adjourned upon a motion by Mr. Shook, and a second by Mr. Zeiter. At roll call, six members voted Aye, zero Nay, and the motion to adjourn passed.

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President of Council

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Clerk of Council