

Regular

March 1

2007

Ontario City Council met in regular session on March 1, 2007 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 Bobby Shook, Charlotte Hellinger, Paul Williams, Mark Weidemyre, Debbie Konczak, Dan Zeiter and Carol Shrader; 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.

The minutes of the regular Council meeting of February 15, 2007 were presented for approval. Mr. Weidemyre made a motion to approve the minutes. Mr. Shook seconded the motion. At roll call, seven members voted Aye, zero Nay, and the motion to approve the minutes passed.

PUBLIC COMMENTARY

First to approach Council was Roger Heston of 2419 Ferguson Road who stated: I just have two issues of concern. One of them is probably out of Council's control but possibly something could be done about it but I don't know what. It concerns the clear-cutting that Ohio Edison is doing on the properties on Ferguson Road and they're doing it without regard to the property owner's investment. They have the right to do it, I'm sure, but they are doing it very unreasonably. Mostly, I think it's an issue of failure to communicate. I think they have not done a good job of communicating with the public about what they're going to do out there, how they're going to do it, and when they're going to do it. The information they gave out did not coincide with what was done. I don't know if possibly the Council could establish any kind of a rule or law that utilities need to contact the City and let them know when and where they're going to do that kind of work and what kind of work they're going to do. The second issue that I have is with the effort to control the sewer system that we're having problems with. I understand that something needs to be done with that. However, I'm not so sure that just a blanket ordinance requiring every single homeowner who sells a house to have to spend another two to three hundred dollars just to smoke bomb their system is a real good idea. The real estate market, as we all know, is currently depressed, especially for sellers. Not too long ago the county doubled the transfer tax. Probably, you're not going to get a lot of people up here complaining about the passing of this ordinance because it really doesn't affect anybody until they sell their house. They're not even going to think about it until it shows up when they're trying to do the closing and see that extra two hundred or three hundred dollars or whatever it is going to take. If they have an issue it will be considerably more, although I agree if there is an issue it needs to be taken care of. I just don't think that a blanket ordinance to every single person who sells a house in the City of Ontario should have to have that expense. Possibly, the homes that are older that may have the tile drainage that could be leaking. Maybe you could establish a time when the house was built, if it was built before a certain date when they weren't using the plastic tile, then maybe that would be the ones you would want to smoke bomb since the problem is obviously the sewer. Thank you.

Helen Dye of 2395 Ferguson Road was next to come before Council to say: I've been raped of my trees on my property. I've lived there about ten years and I'm sure Ohio Edison knew that my trees were there, why didn't they contact me before and trim my trees if they were too big? I own the property and Ohio Edison said they own that part of the property, so why am I paying taxes on something that's not mine? I have beautified my lawn with landscaping, I have worked very hard, I have no husband, and I feel they used me as an example for the other neighbors. They came in there and did not talk with me, I did not see these people from Ohio Edison until the day they started cutting. I don't have a doorbell by my garage, there's a doorbell on the front and there are no tracks out there in the snow that they tried to contact me. They did not give me a chance, they didn't give me time to reset my trees. I heard the chain saw, I walked out and they're cutting every one of my trees to the ground. So, what do I do?

Mrs. Thomas stated there is nothing the City can do.

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Ms. Dye continued: Twenty years ago this property was sold by Schluter. They knew that the power line was there. Nobody explained to me how much voltage there was and if it's that dangerous then I shouldn't be living there. They should not have been able to have sold the property. Am I right? How would you feel if someone came in and cut everything to the ground on your property? I have spent thousands. Last fall, I spent three thousand dollars to CRT Landscaping to come and mulch my property and trim all of the bushes. I have had Arnold's Landscaping, Tuttle's Landscaping, Wayne's Market, and Shafer's Landscaping do work. What am I supposed to do, they're robbing me, and they've ruined my property. This was blue spruce trees, they cut down a birch, they've cut down two red maples and I don't know how many big pine trees that weren't underneath the electric line. What am I suppose to do about it? I pay my taxes. They say that my house is on the easement line, the corner of my house. They didn't explain to me that they would have to come in there and cut up the whole yard. I think I should be compensated somehow or somehow. Where are the Ohio Edison people? Who is supposed to know the answers about Ontario when they sold the lots? They had to pass code, where is that?

Mr. Heston commented: When the title company does a title search for the closing they tell you where the easements are and you buy the property subject to all utility easements. But, I think the point she is trying to make is the unreasonableness of which they did what they did. They had the right to do what they did but they didn't do it with any consideration.

Mr. Metzger explained that Council and Administration have no control over this and Ms. Dye should contact Ohio Edison.

Ms. Dye added: They used me as a threat to the other neighbors on our street. I'll get an attorney and fight it to the end. I may not win a penny but I don't have anything. They promised me not one dime and they paid neighbors and didn't even cut their trees.

Lowell Wilson Sr. of 2379 Ferguson Road was next to come before Council to say: The only thing I want to talk about is the difference in the power lines. I've been told there are two sets of power lines. The one to the west of me has two on it and the man explained to me that the next one west, toward Helen's house, which is right in front of her house, has a drop line. He explained that would be as far as they would go and no further. It's not a complaint because I know it's federal law that they have the right to do what they want to do because it's an easement. But, they went past that and there has to be some guidelines. Don't they ever inform the City when the power company is going to come in? I go to the Planning Commission and we discuss that stuff when people build in the neighborhood. Did the City ever get any forewarning what First Energy was going to do? It was strong-arming. First, one day you come home and see this on your door handle (Mr. Wilson held up a notification card). It was totally unethical. This was on a threatening piece of paper on your door handle. Then, you get a letter, threatening. I feel sorry for Helen, but we all got raped. They really didn't give anybody a chance, it was more of a strong-armed tactic. If you'd seen them come in, they must have grouped down at Cheddars, they were in and out. I got a phone call at work at 8:10 because they smart-mouthed Kathy, that's when I came home. One other thing on the power lines, I was told with the drop, I think it's ten foot down where they stop, it's still 65K all the way to Crestline. What's the difference, they stop at Helen's and from on up it's feasible – it's still 65 thousand volts.

Mr. Weidemyre said he met with the forester and Kurt Gardner of Ohio Edison who explained the difference between the two lines. The lower lines are distribution lines and Ohio Edison has a different set of tree trimming rules for distribution lines. When distribution lines are below transmission lines they don't worry about trees growing into the transmission lines because they will be trimming on a regular basis to protect the distribution lines. Different foresters look after that and there are different rules with the PUCO. A different division of Ohio Edison handles that from the Schluter property west. They were to work with Ms. Dye and clean it up as reasonably as they could because she has a unique situation with partial distribution lines and partial transmission lines. They were going to offer replanting vouchers for trees and grind the stumps. Mr. Weidemyre suggested Ms. Dye contact Kurt Gardner of Ohio Edison since her phone calls are not being returned.

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Mr. Wilson said: The strong-arming was a concern. It's a coveted neighborhood and they are to maintain their homes. I knew by federal law they had the right to take two trees but they took four. I'm in litigation right now with them and can't understand why they came in. I have a case file against them from three weeks prior. The strong arm tactic is something that really doesn't set with me.

Mr. Metzger suggested Mr. Wilson contact the PUCO to explain his situation and to also make use of the local media through radio, newspaper and television.

COMMITTEE REPORTS

Mr. Williams shared information from the Economic Development meeting on February 26, 2007 where they asked Mayor Bender to obtain quotes for the cost of upgrading the City's web-site. They also discussed attracting new business to the area, such as warehouses or distribution centers, to fill the vacant buildings and the possibility of using the land in the industrial park.

Mr. Weidemyre reported the Finance Committee also met on February 26 where they made minor changes to the permanent appropriations which are reflected in Ordinance No. 07-12 on tonight's agenda.

Mr. Shook, Mrs. Hellinger, Mrs. Konczak, Mr. Zeiter and Mrs. Shrader had no report this evening.

MAYOR'S REPORT

Mayor Bender began with the February Zoning Report. The fees of \$1,884 were for two buildings under construction with a combined assessed value of \$525,000.

The February 14, 2007 Planning Commission meeting was canceled due to the snow storm and was held on February 27.

- The Furniture Row store, to be located in the Menards complex, received final plat approval.
- Mr. Harry Winfrey and a representative of GEM Developing Company requested preliminary plan approval for a condominium development to be located on August Drive. They requested and received approval to vacate the existing plat for one large development plat that will come before Council for consideration.
- Larry Wade of Archer Sign received authorization to construct a sign on the Osborne property, north of the Speedway gas station on N. Lex-Springmill Road and 4th Street.

At this time, Mayor Bender invited representatives, Sharon Pollack, a community service trainer for Richland Newhope, and Sandy Weaver, a recipient of services offered by Newhope who is employed by Cheddars, forward to receive a Proclamation confirming March as Developmental Disabilities Awareness Month.

Mayor Bender presented the following Proclamation:

Developmental Disabilities Awareness Month

WHEREAS: Individuals with developmental disabilities, their families, friends, neighbors, and co-workers encourage everyone to focus on the abilities of all people; and

Whereas, the most effective way to increase this awareness is through everyone's active participation in community activities and the openness to learn and acknowledge each individual's contribution; and

Whereas, opportunities for citizens with developmental disabilities to function as independently and productively as possible must be fostered in our community; and

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Whereas, educational, employment, housing, therapy, transportation, and recreational opportunities are available through Richland Newhope to support children and adults with disabilities throughout their lifetime; and

Now, therefore, I, Kenneth A. Bender, Mayor of the City of Ontario, do hereby proclaim March, 2007, as

Developmental Disabilities Awareness Month

And emphasize to all citizens of the City of Ontario to recognize each individual as he or she asks us to "Focus on What I Can Do." This support will assist each individual's efforts to make choices and realize his or her potential at school, at work, and in the community.

In witness whereof, I have hereunto set
My hand and caused the seal of the
City of Ontario to be affixed this 1st
Day of March in the year of our
Lord, Two Thousand and Seven.

Kenneth A. Bender, Mayor

Mayor Bender read the following Proclamation in honor of American Red Cross month:

American Red Cross Month

WHEREAS: for more than a century, the American Red Cross has been at the forefront of helping Americans prevent, prepare for and respond to large and small disasters. Families and communities depend on the Red Cross in times of need; and the Red Cross depends on the support of the American people to help sustain the foundation; and

Whereas, each year during the month of March we formally recognize the American Red Cross and its essential humanitarian role in our community. We honor the role of the Richland County Chapter's contribution to making Ontario and Richland County, Ohio a better place. This year we honor the spirit of the volunteers, donors, partners, and employees who support the Red Cross mission of humanitarianism; and

Whereas, the Richland County Chapter of the American Red Cross has relied on the everyday heroes who donate time, blood, and money; people who help coordinate blood drives, who respond to family disasters; who deliver armed forces emergency services; and who instruct health and safety services. The Richland County Chapter is one of more than 700 chapters across the country who tirelessly serves their community; and

Now, therefore, I, Kenneth A. Bender, Mayor of the City of Ontario, do hereby proclaim the month of March, 2007, as

"American Red Cross Month"

and March 2nd 2007 as Hometown Heroes Day and urge all citizens of the City of Ontario to continue to give your time, blood donations, and money to make a difference in the humanitarian fabric of this community. We help each other when we help the Red Cross.

In witness whereof, I have hereunto set
My hand and caused the seal of the
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Kenneth A. Bender, Mayor

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SERVICE/SAFETY DIRECTOR'S REPORT

Mr. Au had no report.

In response to Mr. Weidemyre's question, Mr. Au confirmed snow has been cleared from most of the catch basins to prevent flooding into the streets.

LAW DIRECTOR'S REPORT

Mrs. Thomas had no report.

MISCELLANEOUS MATTERS

Mr. Metzger presented requests from the Ohio Division of Liquor Control for Ying Mayflower Inc. and the Northern Ohio Pizza Company Inc. Council members did not require hearings, therefore, the applications will be approved and returned.

Consideration of Ordinances and Resolutions:

Mrs. Hellinger made a motion to amend Ordinance No. 07-10, section 939.03 Document of Certification Application, by replacing the wording 'drainage system is sound,' to read *sanitary sewer lateral system is sound with no leaks*, and in the next sentence replace 'drainage system' to read *sewer system*. Mr. Shook seconded the motion. When Mr. Zeiter asked how this will affect a third reading, Mr. Metzger responded this is just for the amendment and next they will vote on the suspension. At roll call, seven members voted Aye, zero Nay, and the motion passed.

Mr. Metzger verified that all Council members have copies of Ordinance No. 07-10 reflecting the new wording.

ORDINANCE NO. 07-10

(SECOND READING) AN ORDINANCE IN THE CITY OF ONTARIO, RICHLAND COUNTY, OHIO, ENACTING CHAPTER 939 THAT ESTABLISHES A REQUIREMENT FOR CERTIFICATION OF SANITARY SEWER STATUS PRIOR TO THE SALE OF REAL ESTATE WITHIN THE CITY OF ONTARIO, AND AS A CONDITION FOR THE ISSUANCE OF MUNICIPAL LIEN LETTERS AND PROPERTY TAX VERIFICATION LETTERS.

Mrs. Hellinger made a motion to suspend the rules requiring the reading of Ordinance No. 07-10 on three separate days. Mr. Williams seconded the motion. At roll call, four members voted Aye, three Nays by Mr. Weidemyre, Mrs. Konczak and Mr. Zeiter and the motion to suspend the rules failed. Mr. Weidemyre read Ordinance No. 07-10 for the second time, by title only.

ORDINANCE NO. 07-12

AN ORDINANCE ESTABLISHING PERMANENT APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF ONTARIO, OHIO FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2007 AND EXPIRING DECEMBER 31, 2007.

Mr. Zeiter made a motion to suspend the rules requiring the reading of Ordinance No. 07-12 on three separate days. Mrs. Konczak seconded the motion. At roll call, seven members voted Aye, zero Nay, and the motion to suspend the rules passed. Mr. Zeiter read Ordinance No. 07-12 for the first time, by title only.

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Mr. Zeiter made a motion to adopt Ordinance No. 07-12. Mrs. Hellinger seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Ordinance No. 07-12 was adopted.

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. Weidemyre. At roll call, seven members voted Aye, zero Nay, and the motion to adjourn passed.

President of Council

Clerk of Council