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Ontario City Council met in regular session on October 2, 2008 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 Dan Zeiter, Mark Weidemyre, Leon Blackwell, Barry Lewis, Paul Williams, Charlotte Hellinger and Joseph W. Cinadr; Mr. Metzger; Mayor Kenneth Bender; Law Director Rebecca Thomas; Service/Safety Director Charles 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 September 18, 2008, were presented for approval. Mr. Lewis made a motion to approve the minutes and Mr. Cinadr seconded the motion. At roll call, seven members voted Aye, zero Nay, and the motion to approve the minutes passed.

Mr. Metzger invited representatives from the Richland County Senior Services to come forward. Jim Hairston, Fiscal Director at the Area Agency on Aging, and Executive Director Duana Patton provided a presentation pertaining to the upcoming levy. Their mission is to develop and implement a coordinated service system and a resource network for older and disabled adults. These services have been provided to nine counties for the past thirty-four years. Pamphlets outlining their program were circulated to Council members.

Mr. Weidemyre made a motion to support the Richland County Senior Services Levy on November 4, 2008. Mr. Williams seconded the motion. At roll call, seven members voted Aye, zero Nay, and the motion supporting the Senior Services Levy was approved.

## **PUBLIC COMMENTARY**

City Auditor Nancy Morehead, 672 Scott Drive, came before Council to say: I'm here tonight because I want to correct something that was said about me at the last meeting on September 4<sup>th</sup>. Mrs. Thomas indicated, or implied, that I had stolen something from her office when Mr. Zeiter asked her about an invoice for Calfee, Halter, & Griswold, which is an outside law firm that she uses. I didn't steal that from her office. I received a statement from her and I don't pay bills from statements, I use invoices. She had told me that she didn't have an invoice so I called Calfee, Halter, & Griswold and they e-mailed me the invoice. I don't understand why she would imply something like that but she has to live with that, I don't.

I was performing my duties when I requested the invoice and according to Ohio Revised Code 733.13 states, the city auditor, when any claim or invoice is presented to me I may require evidence that such amount is due, and for this purpose may summon any agent, clerk, or employee of the municipality or any other person, and examine him upon oath or affirmation concerning such voucher. I would never steal anything from anybody's office; I've never broken into anybody's office. I wouldn't risk my reputation or my soul to do something for a worthless piece of paper. Thank you.

Mrs. Thomas responded: I am sorry, I didn't mean for that implication to be there. If I said it the wrong way, I'm sorry for that. I didn't mean for that to be the implication.

Next to come before Council was Fred Kohler, 1482 Lex-Springmill Road North, who stated: It's budget time. I don't know where you are in your series of activities for next year's budget, so my question is, where are you in that? And, then I want to say, you folks have the toughest challenge ever, we are in an economy that no one understands. You're income is going to go down, your expenses are going to go up, you folks have got to figure out how to balance those budgets and that's not going to be easy. So, I'm going to be kind of tracking along and I want to come to some of your finance meetings because I've been in your chairs before and I was one of the people that challenged everything in the budget, but not like you're going to have to challenge those budgets. So, I guess I'll ask the questions, who's the chairman of Finance and where are we?

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Mr. Zeiter replied: I'll answer that question very simply, as of today, October 2, 2008, I have yet to see a budget from the Mayor or anyone else in this Administration.

Mr. Kohler continued: At what point in time do you have to close that process and adopt that budget? Mr. Zeiter answered: By the end of the year. Mr. Kohler thanked him and commented: You have a lot of work to do yet, folks.

Mr. Metzger added, if the legislation passes tonight they will be going out for bid for health insurance which is a key part of the budget. There have not been any formal meetings for the Finance Committee.

Mr. Kohler concluded by saying: In the past we had a much better robust economy and I don't know how the Auditor and everyone else is going to have to pitch together to put together some what-ifs. There are some real likely possibilities that we're going to lose a lot of employment in this City, meaning businesses are going to start laying off people. It's a fact. With the financial markets the way they are, it used to be the financial markets were the safest place to be employed, to put your money, but not any more. And then you're facing, I don't know what kind of bids you have for road salt, but my understanding is it went from \$50/ton to \$150/ton. You know what's going on with gasoline and you know what's going on with natural gas.

Mayor Bender commented: We are locked in this year for \$46/ton. As far as the budget process, all departments have reported, we have interviewed the heads and today I finished my last part of it. We need to get with the Auditor now and hopefully by October 15<sup>th</sup> it will be ready to present.

## COMMITTEE REPORTS

Mr. Zeiter said a Finance Committee meeting was originally scheduled tonight before Council but has been rescheduled for October 16, 2008, at 5:15 p.m. Mr. Zeiter reported the Law Director asked the Auditor to write two checks to Chief McClaran. One was for wages in the amount of \$47,394.46 and a second check for reimbursement of hospitalization insurance in the amount of \$26,697.69. He added that he has not been contacted by the Law Director or anyone in Administration during the last two weeks to discuss the McClaran issue. These two checks, added to the \$110,000 already spent on outside legal services and consultants, equal \$184,000 spent so far.

Mr. Blackwell said the Personnel Committee meeting that was cancelled this evening was rescheduled for October 16, 2008 at 5:30 p.m. Mr. Blackwell thanked everyone for their expressions of sympathy in the loss of his wife.

Mr. Lewis commented on several items.

- Is progress being made regarding the water collection for past due bills? Mrs. Thomas said she received information this week that the federal government is getting involved and she is waiting to see what comes out of that legislation.
- The Ohio Revised Code 121.22 was quoted as to the reason why the public is not permitted to speak during Planning Commission. The last meeting was concerning the apartments going in across from Scott's Farms and The Villas. Mr. Lewis read the entire section of the Ohio Revised Code 121.22: "The Sunshine Law does not require that public body provide public with opportunity to comment at its meetings; however, if public body chooses to allow public participation, such participation is subject to protection of First and Fourteenth Amendments." Mr. Lewis continued by saying it is a trick to only show the part of the law that is beneficial to whatever cause they are working on at the time, they don't read the whole thing. What's been said in the past at Planning Commission only states the part about not allowing you to speak. It is true, they don't have to allow you to speak, but they can, but they won't.
- Mr. Lewis asked the Law Director how the ordinance for the City of Ontario stands up with having to pay two Chiefs of Police? I think we may be in violation of our own ordinance. How do we stand with the Police and Fire in Columbus or under Civil

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Service laws? Something doesn't seem right and we're paying a chief who isn't back to work. Mrs. Thomas responded that she couldn't say a lot in public because it is still pending, there is still the pending federal case. Part of this is still under the 5<sup>th</sup> District Court of Appeals, so that is being finalized. The pending federal case is going to be a global resolution of this situation. I can't give any details in public because it is pending litigation. Mr. Lewis asked how a case that has already been settled by the Supreme Court can be blacked out and not spoken of because you are talking about other pending items, one has nothing to do with the other. You might be trying to lump it all together but it has been resolved, why can't we get something done? Mrs. Thomas said it is still being dealt with by the 5<sup>th</sup> District Court of Appeals, it's still being dealt with by his attorney, it's still being dealt with by our attorney and still being dealt with by the federal court. Mr. Lewis said the Supreme Court told you to put him back to work and pay him. Mrs. Thomas said, no, it just said to reinstate and pay the difference; the payments have been made. Mr. Lewis asked, reinstate him and going back to work, is there something different I'm missing here? Mrs. Thomas said, yes, there is; it's still being dealt with in the federal court and I can't go any further with it.

Mr. Weidemyre asked if they were in violation of the ordinance because there is only a position created for one chief. Mrs. Thomas said she can't get into it here.

Mrs. Hellinger asked the Law Director on behalf of residents in her neighborhood, why a party at the end of the street who put in blacktop to expand their driveway was not required to remove it? She spoke to Mr. Au who said he would send a letter, which was done, but nothing else has been done. When she asked Mr. Au again about this situation he said it was now the responsibility of the Law Director. Mrs. Thomas said she just received information from the Zoning Inspector who completed his process. This is a criminal violation and Mr. Hoover is working with the other attorney.

Mr. Cinadr reported that \$3 million in permits were issued for new construction. He also thanked Mr. Kohler for his comments and will keep them in mind in the future.

Mr. Weidemyre, Mr. Lewis, Mr. Williams, Mrs. Hellinger and Mr. Cinadr had no committee reports this evening.

## **MAYOR'S REPORT**

Mayor Bender read part of a letter regarding the recent wind storm that he received from Ohio Edison's Area Manager Kirk Gardner.

All of us at Ohio Edison deeply appreciate the efforts of your City employees who worked side by side with our crews to respond to the widespread damage following the high winds on September 14<sup>th</sup>. The people of your community are fortunate to have dedicated public servants who provide such extraordinary response under difficult conditions. Please offer our gratitude to all your employees for their invaluable support.

Mayor Bender acknowledged their gratitude because the City does have a tremendous crew that will go above and beyond what is required.

The Mansfield/Ontario/Richland County Health Department will hold their annual flu immunization clinic in the Community Room, Thursday, October 30<sup>th</sup>, 1:00 - 4:00 p.m. The bills will be submitted for those who are on Medicare or Medicaid; the charge is \$22 for adults and \$10 for children 6 months to 18 years of age.

The Lewis Road bridge outside the City limits is closed from October 1<sup>st</sup> -15<sup>th</sup> for deck repair and repaving.

Trick or Treat night is October 30<sup>th</sup> from 5:30 p.m. to 7:00 p.m. All participating homes should have their porch lights turned on and all motorists are encouraged to be cautious.

Mr. Metzger asked the status of purchasing a generator for the City building. Mayor Bender deferred to Mr. Au who said they have not received any new information. Mr. Metzger added that he would like to see this taken care of before the winter weather sets in.

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

Mr. Au had no report.

#### **LAW DIRECTOR'S REPORT**

Mrs. Thomas had no report.

Mr. Zeiter circulated copies of a bill dated March 28, 2008 from Calfee, Halter & Griswold in the amount of \$12,575.21. Mrs. Thomas said this was not the correct bill, they never received the correct bill, and the second page is not public record. It is protected under attorney/client privilege and attorney work product.

Mr. Zeiter stated, as Chairman of the Finance Committee he has instructed the City Auditor not to pay the invoice until it is corrected. Mr. Zeiter said this has been discussed for a month. The case on the bill was when Mrs. Thomas sued the City of Ontario three years ago and this is not the law firm that represented her in the case. He questioned how they got the case number and why they brought it up and sent a \$3,000 bill to the City. Mrs. Thomas said it was the same law firm that represented the City before, different attorney, same law firm; she has asked for a corrected copy when this bill came in April but she has not received one.

Mr. Zeiter referenced the second page where the fees are calculated at \$450/hour and directed his next two questions to Council members. Is there no one in this area that is capable of handling this case and why are we allowing one person, the Law Director, to spend that kind of money on an attorney outside of this area?

In response to Mr. Weidemyre's question, Mrs. Thomas said it is the correct rate and many times other attorneys handle part of it at a lower rate but there are certain parts that only he can handle.

Mr. Zeiter asked Mrs. Thomas if she would agree there is no one in this area that is capable of handling this case and that is why they had to go to Cleveland? Mrs. Thomas responded, that's correct.

Mr. Weidemyre asked if the insurance company is going to pay this, Mrs. Thomas said this was not the one the insurance company was working on.

When Mr. Lewis asked Mrs. Thomas again if there was anybody in Richland County that could handle that case, Mrs. Thomas said they might be able to handle it but whether anybody would take it is another thing.

Mrs. Thomas said the bill has been paid except for the \$3,000 and the money needs to be appropriated.

When Mr. Weidemyre asked if the insurance company was handling the new case, Mrs. Thomas said they are not paying all of it. She has not received any bills yet to know what they are not paying. The insurance company has the right to decide how much of the fees they are going to pay, if the City doesn't pay the rest they can cancel coverage. Mr. Weidemyre asked if the City should allow the insurance company to handle the claim in its entirety and let them appoint the attorney. Mrs. Thomas said the insurance company appointed Attorney Goddard

but they are paying part of it and the City is paying part of it. Mr. Lewis asked who recommended they hire Mr. Goddard? Mrs. Thomas said it was mixed because it was an ongoing case. When they did the appointment the first case had not been settled yet except for the 5<sup>th</sup> District's decision. Mr. Weidemyre asked if there was anyway the insurance company can handle the case in its entirety so there are no fees or costs to the City? Mrs. Thomas said: I'm still working on that but I don't know if we can, trying to.

## **MISCELLANEOUS MATTERS**

Mr. Cinadr said the first Council meeting next year is on January 1, 2009. He recommended that Council reschedule the January 2009 meetings to January 8<sup>th</sup> and January 22<sup>nd</sup>. Mr. Zeiter seconded the motion. At roll call, seven members voted Aye, zero Nay, and the motion to change the meetings in January 2009 was approved.

## **CONSIDERATION OF ORDINANCES AND RESOLUTIONS**

### **ORDINANCE NO. 08-37**

(THIRD READING) AN ORDINANCE REPEALING CHAPTER 909 DRIVEWAYS OF THE CODIFIED ORDINANCES OF THE CITY OF ONTARIO AND AMENDING 1119.03(e) STREET AND UTILITY IMPROVEMENTS AND 1145.07 DRIVEWAYS.

Mr. Cinadr made a motion to adopt Ordinance No. 08-37. Mrs. Hellinger seconded the motion. Hearing no discussion, five members cast their votes Aye, two Nay votes by Mr. Weidemyre and Mr. Lewis, and Ordinance No. 08-37 was adopted.

### **RESOLUTION NO. 08-16**

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.

Mr. Williams made a motion to suspend the rules requiring the reading of Resolution No. 08-16 on three separate days. Mr. Weidemyre seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Williams read Resolution No. 08-16 for the first time, by title only.

Mr. Williams made a motion to adopt Resolution No. 08-16. Mr. Blackwell seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Resolution No. 08-16 was adopted.

### **RESOLUTION NO. 08-17**

A RESOLUTION AUTHORIZING THE SERVICE/SAFETY DIRECTOR TO ADVERTISE FOR COMPETITIVE BIDS FOR HOSPITALIZATION AND PRESCRIPTION DRUG INSURANCE, FOR CITY OF ONTARIO EMPLOYEES.

Mr. Zeiter made a motion to suspend the rules requiring the reading of Resolution No. 08-17 on three separate days. Mr. Weidemyre seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Lewis made a motion to correct Section 1, to state the year as 2009 instead of 2008. Mr. Cinadr seconded the motion. Seven members cast their votes Aye, zero Nay, and the correction was approved. Mr. Lewis read Ordinance No. 08-17 for the first time, by title only.

Mr. Lewis made a motion to adopt Resolution No. 08-17 as amended. Mr. Williams seconded the motion. When Mr. Weidemyre asked if they would get to see the numbers before awarding

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the bid, he was informed that they would. Seven members cast their votes Aye, zero Nay, and Resolution No. 08-17 was adopted.

## RESOLUTION NO. 08-18

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT ON BEHALF OF THIS CITY WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR SNOW AND ICE REMOVAL SERVICES ON US 30, STATE ROUTE 309 AND STATE ROUTE 314 AND DECLARING AN EMERGENCY.

Mr. Williams made a motion to suspend the rule requiring the reading of Resolution No. 08-18 on three separate days. Mr. Cinadr seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mrs. Hellinger read Resolution No. 08-18 for the first time, by title only.

Mrs. Hellinger made a motion to adopt Resolution No. 08-18. Mr. Cinadr seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Resolution No. 08-18 was adopted.

## ORDINANCE NO. 08-40

AN ORDINANCE ENACTING NEW CHAPTER 721 (PEDDLERS AND SOLICITORS) OF THE ONTARIO CODIFIED ORDINANCES AND REPEALING EXISTING CHAPTER 721 AND DECLARING AN EMERGENCY.

Mr. Weidemyre made a motion to waive the 24-hour rules on Ordinance No. 08-40. Mr. Williams seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion was approved.

Mr. Blackwell made a motion to suspend the rules requiring the reading of Ordinance No. 08-40 on three separate days. Mr. Weidemyre seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Weidemyre made a motion to append the wording, *and declaring an emergency*, to Ordinance No. 08-40. Mr. Williams seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion was approved. Mr. Blackwell read Ordinance No. 08-40 for the first time, by title only.

Mr. Blackwell made a motion to adopt Ordinance No. 08-40. Mr. Weidemyre seconded the motion. Mrs. Thomas explained that residents will now be able to display a *No Peddlers* sign that would keep out anyone trying to sell; a peddler would have to have a license and they are selling for profit. Solicitors are the school and church fundraisers and do not require a license. If a resident displays a *No Solicitors* sign they would not be allowed to knock on your door. If authorized, the City may be able to provide signs in the future; this would be for the Safety Committee to discuss. This does not affect religious organizations or political events, it only affects money. Seven members cast their votes Aye, zero Nay, and Ordinance No. 08-40 was adopted.

At 7:50 p.m., there being no further business to come before the meeting, the same was adjourned upon a motion by Mr. Williams and a second by Mr. Cinadr. At roll call, seven 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