

This Regular Meeting of Council was called to order on Monday, July 10, 2017 at 8:26 p.m. by Steve Michniak, Council President.

PRESENT: John Ruediger, Jeff Allen, Bridget Pavlick, Steve Michniak

ABSENT: Tim Claypoole, Julie Field, Jessica Timmons

ALSO PRESENT: Glenn Broska, Mayor
Paul Janis, Law Director
Robert Reinholz, Fire Chief
Darin Powers, Police Chief
Jenny Esarey, Finance Director
Joe Ciuni, City Engineer
Bill Miller, Service Director
John Cieszkowski, Planning Director
Rob Peters, Economic Development Director
Shawna Lockhart-Reese, HR Manager
Caroline Kremer, Clerk of Council

MOTION: TO EXCUSE MS. TIMMONS, MRS. FIELD AND MR. CLAYPOOLE.

Moved by Mr. Ruediger, seconded by Mrs. Pavlick. Upon voice vote, **motion carried.**

Disposition of Minutes

None.

Citizens' Comments

Pete Buczkowski, 9345 Root Drive, supported developing a Facebook policy. He suggested every department head and elected official should sign the Criminal Disclosure Form and should also have drug testing done too so they would "be of a right mind" because there was a drug epidemic going on.

Introduction of Legislation Containing Statement of Emergency

The Council President noted that there were not enough Council Members present to pass emergency legislation tonight [six votes were needed] so he suggested the listed legislation plus one that he would add be read for first reading.

T-6339 Amended Ordinance to Rename Police Headquarters and Superior Avenue in Honor of Richard A. Taiclet was not forwarded from tonight's Service Committee Meeting.

T-6351 Approve Construction Agreement for Meadow View Phase 6 was not forwarded from tonight's Service Committee Meeting.

T-6353 A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND ACCEPT FEDERAL CONGESTION MITIGATION/AIR QUALITY FUNDS PROGRAMMED BY THE AKRON METROPOLITAN AREA TRANSPORTATION STUDY (AMATS) TO IMPROVE THE FROST ROAD CORRIDOR, PHASE 2, AND DECLARING AN EMERGENCY IN ORDER TO MAKE FUNDING AVAILABLE AS SOON AS POSSIBLE.

Clerk read by title as directed.

T-6354 A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AN ACCEPT FEDERAL CONGESTION MITIGATION/AIR QUALITY FUNDS PROGRAMMED BY THE AKRON METROPOLITAN AREA TRANSPORTATION STUDY (AMATS) TO IMPROVE THE STATE ROUTE 43 CORRIDOR, AND DECLARING AN EMERGENCY IN ORDER TO MAKE FUNDING AVAILABLE AS SOON AS POSSIBLE.

Clerk read by title as directed.

T-6355 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACTS WITHOUT COMPETITIVE BIDDING WITH TRUMBULL INDUSTRIES, INC. AND HARNER PLUMBING, INC. FOR THE PURCHASE AND INSTALLATION OF TWO REVERSE FLOW PRESSURE REDUCING VALVES, AND DECLARING AN EMERGENCY IN ORDER TO ACCEPT TIME-SENSITIVE PROPOSALS.

Clerk read by title as directed.

T-6356 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACTS WITHOUT COMPETITIVE BIDDING WITH STRYKER CORPORATION AND PFUND SUPERIOR SALES CO., INC. FOR THE PURCHASE AND INSTALLATION OF A HYDRAULIC COT LIFTER, FOR USE BY THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY IN ORDER TO ACCEPT TIME-SENSITIVE PROPOSALS.

Clerk read by title as directed.

Mr. Michniak said he had received a letter with case research from Mr. Janis regarding T-6342 Submit Proposed Charter Amendments to Electors and had talked with him about it at City Hall on July 6, 2017 and requested legislation for first reading. Mr. Michniak read the letter into the record [see attached]. Mr. Michniak had discussed this with Mr. Janis and deferred to his legal interpretation and his opinion. Mr. Janis felt that although the ordinance failed, that under this case law and his legal opinion, it actually passed. Mr. Michniak had voted for the legislation at the June 26, 2017 meeting to forward the Charter amendments on to the ballot and felt, that night under the emergency ordinances that it was titled, that it required the supermajority (6 votes) which it did not receive so he wasn't going to affix his signature to a document, that in his opinion had failed. As Council President he didn't feel that he could go back days later and say that it had passed based on Mr. Janis' finding in the Supreme Court of a 1975 case. It may end up being the case that in fact he is correct and he is the Law Department and we need to defer to his holding and his opinion of that case, but Mr. Michniak just didn't want to sign that document because, in reality it had failed that night and did not pass, so he did not sign it and did not forward it on to the Board of Election. When he talked to Mr. Janis about this he mentioned that he had said at the June 26 meeting that he would try to get this on for three readings prior to the Board of Elections deadline of August 9. Mr. Janis noted that the Charter deadline to submit Charter Review Commission recommendations was August 1 and the Board of Elections deadline was August 9. Mr. Michniak said Mr. Janis had informed him as Law Director he didn't feel it was necessary for Council to take any further action, he felt it passed

and he could forward it on, but Mr. Michniak still wasn't comfortable with that and didn't affix his signature. He asked (because there was 5 positive votes and 2 negative votes on that piece of legislation) that it be reformatted from emergency legislation to regular legislation and it be read over three meetings so that Council could still make the deadline at the Board of Elections.

Mr. Michniak said it was his personal feeling that in the end, whether this didn't make it on time, whether Council didn't do its job to get it forwarded there on time, or whatever happened, at some point some form of this would make it to the ballot. He had personally voiced his opposition to the amendments themselves and would continue to do so all the way to the election because he didn't think anybody in the City should vote Yes on any one of the amendments. He thought they would destroy the checks and balances that we had in our City that sometimes made it a rough ride, but they did prevent a lot of the things that could happen when just one person had complete power over an entire city.

That being said, Mr. Michniak's personal feelings on how he would vote in November and how he thought the citizens should vote didn't really matter when it came to the law. He thought the law as it was currently written, whether people thought it was constitutional or unconstitutional, it was currently our Charter and the Law Director believed Council must forward it on, so Mr. Michniak had asked to have it prepared for first reading tonight. Council would need to get two more meetings and two more readings with a vote at third reading that would only require four votes. Mr. Michniak indicated that Mr. Janis didn't think Council needed to do this because it was already passed, but Mr. Michniak had disagreed, so he had asked that it be drafted in motion form also, but he didn't think a motion would pass based on the attendance tonight. Mr. Janis advised that it could pass by motion, it didn't have to be an ordinance. Mr. Michniak had asked him to draft a motion and legislation for three readings, which Mr. Janis did all while knowing there was no need to do all that, which Mr. Michniak respected, but he wanted to do it in a manner that was clean. He felt if it went through three readings as an ordinance in his opinion there wouldn't be any legal challenge to getting it to the ballot so the people could vote, and he personally hoped they would vote No, but he didn't think Council could just obstruct and try to keep it from getting to the ballot because he thought the Charter was clear. Mr. Michniak was part of the Charter Review Commission in which they passed on to the voters a Charter amendment that said what the citizens forward on should at least make it to the ballot because old Council's used to stop things they didn't feel were right and it was basically down to Council what went before the voters. So, after that presentation of some background information, Mr. Michniak would open the floor for discussion. There was a motion Council could vote on or an ordinance that could have first reading and there was Mr. Janis' opinion that Council didn't need to do anything because Council had passed it at the last meeting. As Council President, Mr. Michniak wanted to at least have Council read this item as first reading tonight and then there only needed to be two more readings before the August deadline and be true to the Charter to get this before the voters so they could decide if they wanted to pass the amendments or not.

Mr. Allen thought Mr. Michniak had said that no matter what Council did tonight, Mr. Janis would forward this on to the ballot. Mr. Michniak clarified that what Mr. Janis had told him was his legal opinion, and that's the only opinion that mattered, and his opinion was (based on that 1975 Rosch case) that the 5-2 vote at the June 26 meeting passed that ordinance, even though in reality all of Council said it failed; it did not fail. If you read that case, which articulated it better than Mr. Michniak could, even though Council thought it had failed and Council did not pass it that night, if it were to be challenged and go to court, Mr. Janis' opinion was that they would uphold this and it would go on the ballot anyhow. Mr. Michniak personally agreed with him and in the end this would be on the ballot. Mr. Janis had not said he would put this on the ballot, no matter what but gave Mr. Michniak some options and asked Council to let him know what they would do, so he could react. Mr. Michniak hoped to at least read the legislation for first reading tonight. A motion had been prepared because Mr. Michniak assumed the vote might be 5-2 again, but with only four members present Mr.

Michniak guessed it might be a tie and encouraged first reading of the legislation rather than a motion.

Mrs. Pavlick agreed with Mr. Michniak in opposing the Charter amendments because they would destroy the checks and balances, but that was her opinion as a voter. As a Council Member her job was to make sure the citizens got to vote and have a say on what was going on in their community. Then her job would be to educate and impart her opinion on people who ask for it regarding the Charter amendments. She applauded the Charter Review Commission's work because it wasn't an easy job. She thought Council should try to get this to the ballot because she didn't like the idea of having a mandamus action against her and that would do more harm than good, especially with having three new members join Council after November. She supported doing three readings of this if it made everyone more comfortable. Mr. Michniak didn't want this to end up in court. If it was passed by motion, then a citizen might raise a complaint that it was done inappropriately and go to court and spend money to get to the ballot, so as Council President he suggested doing it in three readings and if it passed at third reading, it would be a lock and it would go to the ballot. If it failed at third reading, then there would have to be a mandamus action probably, but based on the previous 5-2 vote he thought it might pass at third reading. He and the Clerk had talked about trying to get three readings scheduled, but he suggested at least getting this first reading done tonight and then would only need two more.

Mr. Ruediger said under the current form of government there was a strong Council with great checks and balances that worked wonderful. Under what the Mayor proposed to the Charter Review Commission members, that he had appointed, they all agreed they would like to go to a strong Mayor form of government, which was another option. Another option Mr. Ruediger thought this Council should consider was to let the voters have a choice on what kind of government they may want: do they want great checks and balances with a strong Council, do they want a strong Mayor form of government with most of the checks and balances taken out, or do they want the third option of going to a City Manager form of government. It had worked well for a lot of cities including Hudson and Kent and it would be good to give the citizens an option of what form of government they really wanted. He thought this Council should really consider putting one more option on the ballot for a City Manager form of government. He said he had copies of other city's charters that laid out the City Manager form of government. He supported three readings for the proposed Charter amendments. He thought the City Manager form of government proposal would have to go as emergency legislation to get on the ballot, which would be good because then we would know for sure that everybody was on the same page, or it could go as three readings if there were enough meetings. He thought this was something that Council should consider and he would forward the different Charters he had to Council by email. Mr. Allen suggested the information be given to the Law Director to write something up. Mr. Ruediger would forward the information to Mr. Janis also.

Mr. Michniak, as Council President, added T-6357 to tonight's agenda and asked the Clerk to read the non-emergency version by title.

T-6357

AN ORDINANCE ACCEPTING THE FINAL REPORT OF THE 2017 CHARTER REVIEW COMMISSION, AUTHORIZING AND DIRECTING THE PORTAGE COUNTY BOARD OF ELECTIONS TO PLACE ON THE BALLOT AT THE NOVEMBER 7, 2017 GENERAL ELECTION, OR AT THE EARLIEST ELECTION PERMITTED THEREAFTER BY LAW TO BE HELD IN THE CITY OF STREETSBORO, THE QUESTION OF AMENDING SECTIONS 3.01, 3.02, 3.08, 4.02, 4.03, 4.14, 4.15, 4.17, 12.02, 24B.03 OF THE CITY CHARTER, AND REPEALING SECTION 23.03

OF THE CITY CHARTER.

Clerk read by title as directed.

First Reading

None.

Second Reading

None.

Third Reading

T-6328 Award Residential Curbside Recycling Collection Franchise was not forwarded from tonight's Service Committee Meeting.

T-6349 AN ORDINANCE PLACING A TEMPORARY MORATORIUM ON THE ISSUANCE OF PLANNING, ZONING AND BUILDING PERMITS, APPROVALS AND CERTIFICATES RELATED TO MEDICAL MARIJUANA BUSINESSES AND LAND USES.

Clerk read by title as directed.

MOTION: TO ADOPT THE ORDINANCE.

Moved by Mrs. Pavlick, seconded by Mr. Allen. Mr. Michniak asked the purpose for the moratorium. Mr. Cieszkowski answered it was to identify a policy direction relative to medical marijuana and the ordinance specified a moratorium of 180 days. Mr. Michniak's concern was that the State legislature had made medical marijuana legal, and once that was effective there would be some money to be made and he didn't want Streetsboro to be behind the curve. He thought Streetsboro should try to open itself to a legal business that could probably be very lucrative and delaying it six months, or just having the headline that stated Streetsboro had a medical marijuana moratorium, could encourage the license holders to move on to another town. He wondered if Streetsboro could still be attractive to those legal business and not have a moratorium. Mr. Janis answered that while the administration would like to expedite whatever policy recommendation they develop to the Council, the City shouldn't really leave itself in a situation where anything could happen, maybe things the City didn't want to happen, if the City didn't have a policy in place and amend the Zoning Code appropriately. Without the moratorium the license holders could apply to be located in a location the City may not want that type of business. The purpose of the moratorium was so that when we rolled out the regulations that get developed, they would guide these business to the places the City wanted them. Mr. Michniak asked, if the moratorium was established, could Council remove it prior to the 180 days or did it have to ride out the whole 180 days? Mr. Janis said Council could lift the moratorium at any time.

Mr. Michniak thought these businesses were going toward the smaller communities and didn't want to miss out, especially if there were limited licenses granted by the State, or be seen as prudish about it.

Mr. Janis clarified that the legislation was currently written as a 180 day moratorium that was renewable by Council with additional legislation. He added that the administration had selected 180 days because this was a zoning ordinance that needed three readings plus 30 days to become effective, so to amend the legislation to a 30 day moratorium would result in a gap-tooth type regulation. The moratorium would be for grow facilities and dispensaries.

Mr. Ruediger asked about the State's time schedule on this subject. Mr. Janis said the State law called for the regulations to be in place as of September 8, 2017, that's why Streetsboro wanted to have this moratorium in place.

Mr. Michniak thought a 30 or 60 day moratorium sounded to the license holders like the City was just trying to get ready for them, whereas a 6 month moratorium sounded like the City didn't want them and was looking for ways to make it legal. He was open to these businesses if it was done right and didn't want to miss out on a lucrative opportunity. Mr. Janis suggested the moratorium could be shorted to 120 days to give 30 days to put together the regulations (that had not been started yet) and then have three readings and 30 days to be effective. Mr. Michniak preferred a 60 day moratorium to indicate the City was working on the regulations and not hiding from this.

Mrs. Pavlick removed her motion to adopt and Mr. Allen removed his second to the motion.

MOTION: TO AMEND T-6349 TO CHANGE SECTION 1 "THIS MORATORIUM SHALL BE IN EFFECT FROM THE EFFECTIVE DATE OF THIS ORDINANCE FOR A PERIOD OF ~~180~~ 60 DAYS."

Moved by Mr. Ruediger, seconded by Mr. Allen. Upon voice vote, **motion carried.**

MOTION: TO ADOPT ORDINANCE NO. 2017-81 AS AMENDED.

Moved by Mrs. Pavlick, seconded by Mr. Allen. Upon roll call, **motion carried 4-0.**

Mayor's Report

None.

President of Council's Comments

Mr. Michniak announced the MLB Home Run Derby was on TV tonight for those that could go home and watch it.

Council Members' Comments

MOTION: TO ADD AN EXECUTIVE SESSION TO TONIGHT'S AGENDA TO DISCUSS PENDING LITIGATION OF SHELLY INC. VS. STREETSBORO AND STREETSBORO PLANNING COMMISSION.

Moved by Mr. Ruediger, seconded by Mr. Allen. Upon voice vote, **motion carried.** Council would go into executive session after the department heads made their reports.

Reports/Communications from Dept/Boards/Commissions

Mr. Peters had provided a Quarterly Report from the Economic Development Department. As an addendum to the report he noted that he received a phone call today from project SPEC. He hadn't heard from them since the first quarter of the year and thought the project had gone dormant, but scheduled a meeting for next Thursday to look at sites in Streetsboro.

Chief Powers reported that he would be out of the office from July 19, 2017 to August 7, 2017 because he had a vacation week followed by an out-of-town conference. Lt. Beaver would be in charge of the department in his absence.

Chief Powers also reported that the remodeled dispatch center was almost completed and the dispatchers would move back in on Wednesday. He invited Council members to come check it out.

MOTION: TO RECESS INTO EXECUTIVE SESSION TO CONSIDER PENDING LITIGATION OF SHELLY INC. VS. STREETSBORO AND STREETSBORO PLANNING COMMISSION

Moved by Mr. Ruediger, seconded by Mr. Allen. Upon roll call, **motion carried 4-0 and the meeting recessed at 9:05 p.m.**

MOTION: TO RECONVENE FROM EXECUTIVE SESSION.

Moved by Mr. Ruediger, seconded by Mr. Allen. Upon voice vote, **motion carried and the meeting reconvened at 9:26 p.m.**

Announcements

There will be a Finance Committee Meeting and a Regular Council Meeting on Monday, July 24, 2017 starting at 7:00 p.m. in Council Chambers.

There being no further business to come before this Council, and upon motion by Mr. Ruediger, seconded by Mr. Allen, this meeting adjourned at 9:26 p.m.

ATTEST:

Caroline L. Kremer, Clerk of Council

Stephen A. Michniak, President of Council