

REGULAR COUNCIL MEETING DECEMBER 6, 2011

The first semi-monthly meeting of Mansfield City Council met on Tuesday, December 6, 2011 at 7:30 PM in the Council Chambers of the City Building.

The Pledge of Allegiance was recited by the audience.

Councilwoman Garnetta Pender led the audience in prayer.

ROLL CALL: The following answered present at roll call: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock, Scott and Versaw.

There being no objections, the reading of the Journal and Communications were dispensed with.

WALTER SPRALEY, 457 EMERALD AVE.: this morning I got up around 4:30 to go to the Y and discovered I had no water and I hung around the house, wife was still asleep, so I ran over to Kroger's, got several gallons of water and distilled water because my wife is a cancer survivor twice, has a bad heart, and she practically lives on oxygen. Now, at 7:00 I started calling the Water Dept. to try to find out what was going on with our water and all I got was a recording. Got your number, call back. I started about a quarter to 7 and I called at 8:00, could not get anyone. At 8:05, I called the Safety Director's office and a young lady answered the phone, said she'd get back to me. I waited about 4-5 minutes, she came back, she said the water's going to be off 5-7 hours. I said, thank you. Does anyone work at the Water Dept. between 5, 4:00 in the morning til about 8? That's my question. If they're closed, who do I call to get some information? I didn't want to call 911, I didn't want to call the Police Dept. so who do I call?

MR. VERSAW: (Microphone not on). You were calling the actual Water Dept.?

MR. SPRALEY: Yep. I called 419-755-9806. That's Water Dept. At 8:05, I called 755-9736 and got a little lady at the Service-Safety Director's Office. I don't know who that was. She may have introduced herself but I was upset, concerned about my wife, but what goes on at the Water Dept. between 4-7, 8:00 in the morning?

PWD ANGELO KLOUSIADIS: I appreciate the question. We had a 12" line that had broken sometime in the night, somewhere around 5:00 in the morning. At that time, we had not located the line. We found the line was off of Davidson St. off Oak and it was in the creek actually, it was bubbling in the creek. It put that whole area out of service. We do have a night man and 9803 or 9806 should have responded, however, they could have been also out looking, out walking the field because they were virtually out walking, looking for this. Our treatment plants are open 24 hours a day, Water and Wastewater Treatment. That would be a source of the call. I don't think calling the Police would have been a bad idea if it was an emergency that you needed for your wife's sake or what information. That would have been a very valid call to make. Both treatment plants are

listed. The 9803, I will check and when we get done here, if you would give me your number, I'll try to find out why you couldn't get a hold of anybody at that 03 or 06.

MR. SPRALEY: I'm not going to quote the recording I got but the point was, they hung up immediately. I couldn't give them a message, I couldn't give them my phone number or anything. It was just, we got your call, get back to ya. How they going to get back to me?

PWD KLOUSIADIS: That procedure needs to be corrected sir, I will check and I will get back with you tomorrow.

MR. SPRALEY: I appreciate that.

SUSPEND RULES

MRS. PENDER: I move with respect to all bills that come before Council tonight that the rule requiring reading on three different days be suspended and that each bill be read one time by title only, seconded by Mr. Hazen. The vote was taken and resulted as follows: Ayes: 8, Nays: 0.

LEGISLATION

DESIGNATE CLERK OF COUNCIL

BY: MR. HILL

ORDINANCE 11-204

Designating a Clerk of Council, establishing the duties and the salary therefore, and declaring an emergency.

Upon motion by Mr. Hill that Bill 11-208 be read and placed upon the floor for discussion, seconded by Mr. Hazen. The bill was read and placed upon the floor for final passage, seconded by Mr. Hazen. The vote was taken and resulted as follows: Ayes: 8, Nays: 0. Ayes: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock and Versaw.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

DESIGNATE ASST. CLERK OF COUNCIL

BY: MR. HILL

ORDINANCE 11-205

Designating an Assistant Clerk of Council, establishing the duties and the salary therefore, and declaring an emergency.

Upon motion by Mr. Hill that Bill 11-209 be read and placed upon the floor for discussion, seconded by Mr. Rock. The bill was read and placed upon the floor for final

passage, seconded by Mr. Rock. The vote was taken and resulted as follows: Ayes: 8, Nays: 0. Ayes: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock and Versaw.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

MR. VERSAW: I don't know if this is the time, but a little history for the new members any maybe even for some of the present members that have been on council for a number of years, but we used to have the salaries for the Clerk and Asst. Clerk were different. Whoever was Clerk made a little more than the Asst. Clerk and that's probably been 10 years ago or maybe longer and decided they are both doing the same job so they both make the same amount of money, so we do have a Clerk and Asst. Clerk depending on control of council, but they basically have the same (?). Whether that's of interest to you, I just thought I would mention it.

PRESIDENT SCOTT: That's good information for folks to know.

ELECT PRESIDENT PRO-TEM

BY: ALL MEMBERS OF COUNCIL

ORDINANCE 11-206

Electing the President Pro-Tempore of City Council for the term commencing December 1, 2011, and ending November 30, 2013, and declaring an emergency.

Upon motion by Mr. Hill that Bill 11-210 be read and placed upon the floor for discussion, seconded by Mr. Rock. The bill was read and placed upon the floor for final passage, seconded by Mr. Rock. The vote was taken and resulted as follows: Ayes: 7, Nays: 0. Ayes: Dunn, Haring, Hazen, Hill, Pender, Rock and Versaw. Abstain: Hightower.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

MR. VERSAW: Is everybody aware of what that position is?

ESTABLISH STANDING COMMITTEES OF COUNCIL

BY: ALL MEMBERS OF COUNCIL

ORDINANCE 11-207

Establish Standing Committees of Council, designating membership thereon for the term commencing December 1, 2011, and expiring November 30, 2013, and declaring an emergency.

Upon motion by Mrs. Haring that Bill 11-211 be read and placed upon the floor for discussion, seconded by Mr. Rock. The bill was read and placed upon the floor for

final passage, seconded by Mr. Rock. The vote was taken and resulted as follows: Ayes: 8, Nays: 0. Ayes: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock and Versaw.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

MRS. HIGHTOWER: I would just like to say thank you to Ellen because I know you work very hard in doing this and I truly appreciate the work you put into it. Thank you very much.

CLAIM – JOE TODD - \$1,137

BY: MR. HILL

ORDINANCE 11-208

Authorizing payment of a claim of Joe Todd, 1720 Sunrise Drive, Mansfield, Ohio.

Upon motion by Mr. Hill that Bill 11-212 be read and placed upon the floor for discussion, seconded by Mr. Rock. The bill was read and placed upon the floor for final passage, seconded by Mr. Rock. The vote was taken and resulted as follows: Ayes: 8, Nays: 0. Ayes: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock and Versaw.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

AUTH SSD & OPERATIONS SUP. EXECUTE AGREEMENT RELATING TO LAND AND HOLD SHORT OPERATIONS

BY: MRS. HARING

ORDINANCE 11-209

Authorizing the Service-Safety Director and the Operations Supervisor to execute a Letter of Agreement relating to the Land and Hold Short Operations (LAHSO) at the Mansfield Lahm Airport, and declaring an emergency.

Upon motion by Mrs. Haring that Bill 11-213 be read and placed upon the floor for discussion, seconded by Mr. Hazen. The bill was read and placed upon the floor for final passage, seconded by Mr. Hazen. The vote was taken and resulted as follows: Ayes: 8, Nays: 0. Ayes: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock and Versaw.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

AUTH SSD PURCHASE BACKHOE FOR USE WITHIN WATER FUND

BY: MRS. HARING

ORDINANCE 11-210

Authorizing the Service-Safety Director to purchase, without competitive bidding, under the Ohio Department of Administrative Services Cooperative Purchasing Plan one (1) new Holland Model B95BLR Loader Backhoe for use within the Water Fund, and declaring an emergency.

Upon motion by Mrs. Haring that Bill 11-214 be read and placed upon the floor for discussion, seconded by Mr. Rock. The bill was read and placed upon the floor for final passage, seconded by Mr. Rock. The vote was taken and resulted as follows: Ayes: 8, Nays: 0. Ayes: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock and Versaw.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

AUTH SSD ENTER CONTRACT W/CBIZ BENEFITS & INSURANCE

BY: MR. VERSAW

ORDINANCE 11-211

Authorizing the Service-Safety Director to enter into an agreement, retroactive to November 1, 2011, with CBIZ Benefits & Insurance, Inc. for professional health benefits consulting, actuarial, and underwriting services, and declaring an emergency.

Upon motion by Mr. Versaw that Bill 11-217 be read and placed upon the floor for discussion, seconded by Mr. Rock. The bill was read and placed upon the floor for final passage, seconded by Mr. Rock. The vote was taken and resulted as follows: Ayes: 8, Nays: 0. Ayes: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock and Versaw.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

AUTH SSD EXECUTE ADOPTION AGREEMENT

BY: MR. VERSAW

ORDINANCE 11-212

Authorizing the Service-Safety Director to execute on behalf of the City of Mansfield an Adoption Agreement for its 457 (b) Deferred Compensation Plan effective January 1, 2012, and declaring an emergency,

Upon motion by Mr. Versaw that Bill 11-218 be read and placed upon the floor for discussion, seconded by Mr. Rock. The bill was read and placed upon the floor for final passage, seconded by Mr. Rock. The vote was taken and resulted as follows: Ayes: 8, Nays: 0. Ayes: Dunn, Haring, Hazen, Hightower, Hill, Pender, Rock and Versaw.

The bill was declared passed, signed by the President, approved by the Mayor and attested by the Clerk.

MR. VERSAW: Yes, I've had some interesting conversations on the phone today. When I saw this Aetna Life with the Ohio Municipal League and I go to the website all the time and look at my statement or whatever. I don't see anything on there that says Ohio Municipal League. So, then I went to Ohio Municipal League and they don't cover corporate 7 plans, so I called Ohio Deferred Compensation and they said, yes, you are covered but Aetna Life Insurance Annuity, ING, is a competitor of ours. I go, whoa! I said, are we changing from Ohio Deferred Compensation to Aetna Life and Annuity? After I did some investigation, I went up to Finance today and talked to Debbie and what I found out was, if have more than 1, the Firemen I think have 1 with one company, there's like 8 or 9 of them throughout the state and we've got a number of them, so I had an interesting conversation today and also finding out that there is more than one and the City of Mansfield has more than one. What I haven't found out, and I asked the Law Director or I asked Dave Remy today, if we're doing this for the life insurance, why aren't we doing it for other plans that we have and I couldn't get an answer. I don't know whether something says now that we have to file this before the end of the year or by the first of the year, but that's only for this Aetna Life Insurance. According to 457 (?) she said, yeah, you have to do that as well for all of them and I'm just wondering, should we be having legislation for more, if we have two or three 457(b)'s, should we be doing this same piece of legislation for each one? This is just for Aetna Life Insurance. What about the actual Ohio Deferred? So, it's a question I have and we do have one more council meeting but should we be doing this for the other plans that we have in the city.

LAW DIRECTOR SPON: Microphone not on.

AFTER LEGISLATION:

MR. HILL: I have a quick question. Is Planning commission next Tuesday? Are they taking into consideration the wells?

LAW DIRECTOR SPON: (Microphone not on). There is a legal issue and a health issue. We want to be pragmatic. We want to be objective.

MR. HAZEN: (Microphone not on). At the previous council session when we were discussing this particular issue, your predecessor mad the comment that there was a loophole in the way commission was set up and that normally, this kind of vote ends up coming before council. I'd like to know what that loophole is because at this point, we also have a Charter Review Commission that's getting together to address the Charter. If this is something that we should address, as a Charter issue as far as how these decisions are made and whether or not council action is supposed to follow that act, I would appreciate knowing that because then we can made a recommendation after the Charter Review Commission as to whether or not we believe this is something that should be, once passed by the commission, followed up with a council vote or council approval beyond just the commission. In most cases where there's zoning or zoning exceptions, we actually (?)...what exactly that loophole is that keeps this away from council (?).

LAW DIRECTOR SPON: Did he use the word "loophole"?

MR. HAZEN: I believe he did, sir.

LAW DIRECTOR SPON: (Microphone not on). The loophole may be that city council may not have an opportunity to be involved in this. Dept. of Natural Resources has jurisdiction of where the drills are located. City needs to hire an expert to consult. May need to reach out to OSU to be objective in this industry.

MR. HAZEN: (Microphone not on). I think there's 2 different questions. There's the issue, at hand, concerning this particular (?) and what all is involved and it sounds like the ODNR has some overriding authority in this particular instance. There's also the question concerning the zoning commission and it could be around this issue or it could be around a variety of issues and I guess if there is something that would fall on municipalities to address exclusively taking this issue off to the side but there is some sort of missing link inside of the zoning commission that allows them to make a zoning change without council approval, that's the particular piece of that question. I'm just curious about, from a legal perspective, because I want to know if that's something that we should address now that we've got that Charter Review Commission or is it really something that we don't necessarily (?). I think the (?), the Zoning Commission makes the decision but (?).. bring it to council. This is one of the few times I've heard that this is kind of the commission's determination and we're out of the picture, so that's something that I really want to get clarification on.

LAW DIRECTOR SPON: (Microphone not on). I'll definitely look into that.

MR. VERSAW: Over the years when I've been involved with council, if it affects our zoning ordinance then it would come to council. If it's a permitted use in the zoning ordinance or it meets our present zoning ordinance specifications for permitted uses, then council wouldn't be involved. Only when the zoning ordinance has to be amended do we get involved in the vote. That's what I've always been told.

LAW DIRECTOR SPON: (Microphone not on). I think my understanding is the same as your understanding. (?) It makes sense to me...

MR. VERSAW: Isn't Atty. John Burton representing this company?

LAW DIRECTOR SPON: Yes he's involved in the legal issues of the company. My concern is the safety of the community. I have a meeting set up with him. If there is a danger, then we will let the courts decide.

MR. VERSAW: I heard, second hand that this company is in no rush. They're talking, at the earliest, next summer that they'd even want to do this. I'm just saying I don't think we have to rush into making the decision. We need to be informed and then this decision is made. Even if it's after the first of the year, I think, that would be fine. We need to understand this issue before even the Planning Commission.

LAW DIRECTOR SPON: (Microphone not on). My understanding is...remove it and dump it here in Ohio.

MR. VERSAW: What I've been hearing is that the reason Pennsylvania is looking at Ohio is because they have solid shale, where we in Ohio have layers of shale and we have caverns to put this liquid, where in Pennsylvania there is no caverns, there is no place to put it in their geology I guess. I don't know if that's actually true but that's what I'm hearing.

LAW DIRECTOR SPON: (Microphone not on). Must be accurate.

ADJOURN: Upon motion by Mr. Hill and seconded by Mr. Rock, and passed by voice vote, the meeting was adjourned.

Amy Yockey
Clerk of Council

Phillip Scott
President of Council