

REGULAR COUNCIL MEETING FEBRUARY 21, 2017

The second semi-monthly meeting of Mansfield City Council met on Tuesday, February 21, 2017 at 7:30 PM in the Council Chambers of the City Building.

The Pledge of Allegiance was recited by the audience.

Councilman Jason Lawrence and led the audience in prayer.

ROLL CALL: The following answered present at roll call: Bryant, Jefferson, Lawrence, Mears, Pender, Scott and Van Harlingen. Upon motion by Mr. Mears and seconded by Mr. Jefferson, Mr. Hill and Mr. Rock were excused.

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

MARY MOUNT, 114 CLIFFBROOK: It's not on chickens this time. This is brief. We got, with our water bill, this letter that says a copy of the federal tax return 1040, 1040A, or 1040EZ must be attached to the Mansfield City return. So, I was advised to make a few phone calls on this, so I called the Attorney General's office who then sent me to the Ohio Consumer Council who sent me to the PUCO, and no one could provide a state law that authorizes Director Steward to ask for this information. So, I would ask you, Mrs. Pender, Mr. Mears, Mr. Bryant, you're our representatives here, At-Large and specifically Ward 6, could you please find out what gives her the authority to ask for this. Please consult with Mr. Spon. This is new. I think the Mansfield citizens have a right to know why she's requiring something new with our forms. Thank you.

MR. BRYANT: I was unaware.

MS. MOUNT: Are you unaware of it? Yes. She's requesting a copy of the federal tax return, 1040, 1040A or 1040EZ to be attached to your Mansfield City returns. It came with the water bill.

PREISDNET SCOTT: For your city income tax?

MS. MOUNT: Yes. I would definitely appreciate if you could look into that. I might be the first one to question it, but I think other citizens will wonder why they're supposed to.

MR. BRYANT: Did you call Director Steward?

MS. MOUNT: I didn't call Director Steward. I was trying to find state law, but they couldn't give me anything. Thank you.

LAW DIRECTOR SPON: I would ask City Councilmembers, if they haven't already looked at it, to look at the present language of the Chicken Bill because we modified it, quite simple, permit denied, parties that went together to the City Planning Commission and they make the decision.

MR. LAWRENCE: Can I speak to that right now? You said "we". We being the Law Director's office? Who is this "we" that you say made this revision to a revised ordinance, that we want to revise?

DIRECTOR SPON: I'm saying my office made revisions. I think I talked to one or more Council Members on it.

MR. LAWRENCE: Which ones? Because I'm the Zoning committee Chairman, my name is on this legislation and I did not know about this. A constituent called me on Friday afternoon.

DIRECTOR SPON: You were not advised?

MR. LAWRENCE: No sir. Who did you advise?

DIRECTOR SPON: Mr. Mears, I think Mr. Hill maybe. Mr. Van Harlingen. I'm not sure who. Sharon May was also involved in it, so, my point is, I apologize if you hadn't gotten it. There were a number of issues that came out and again...

MR. LAWRENCE: Like I said, it was a stroke of genius, I think it was a great revision. I've spoken with the constituent that called me on it and they're not in any objection to it. I would call into question, I believe it's G, if we want to look at it, about the property value issue, which keeps coming up. I still haven't gotten any concrete evidence that this is going to lower property values. I'm hearing...

DIRECTOR SPON: It's not there for that reason. In other words,...

MR. LAWRENCE: Under G, 505.021, there's 7 points under G, and point 3 is about the general characteristic of a neighborhood, 5 is about the possible impact of residential property values. This is the appeal process that would go to the City Planning Commission and remind me again who's on the City Planning commission.

DIRECTOR SPON: Well, we have, what, 5 members there. They're very educated.

MAYOR THEAKER: Well, there's Dan Seckel.

MR. LAWRENCE: I'm not questioning, I just wanted to know.

MAYOR THEAKER: I can give that list to you.

MR. LAWRENCE: Those 5. Does it have to be a 3-2 vote for or against?

MAYOR THEAKER: Yes. No, there's more than 5.

DIRECTOR SPON: It's no different, in other words, City Planning commission hears variances all the time. For fences, for setbacks, for ramps, so they're always considering the issue of variances. What I like about it is, they can take anybody's application that's been denied, anyone, take it and rationally look at and say, which neighborhood is this in, what's the overall characteristics of the neighborhood? How far is the adjacent house, and they'll be able to, just like they do for fences or anything else. It's literally on a case by case basis, so the good thing, I think, about the legislation, it takes City Council off the hook to be forced to pass legislation or shut down legislation, like all or none, secondly, it gives every person that wants an opportunity to be able to have chickens, to come as an individual applicant to the City Planning Commission, where the variance could be granted and then other situations might be denied, so I think it's very equitable, almost a win, win situation. City Council would be saying, we're going to prohibit or force it. We're going to give you the procedure that you can proceed for City Planning to make a final decision.

MR. LAWRENCE: I still have the floor. I yield to Mr. Jefferson and Mr. Mears and I still had some other points to make afterwards.

MR. JEFFERSON: Maybe you should go ahead then. With all due respect Mr. Law Director, when a Council person is putting legislation forward, they should have the opportunity to discuss that with your office and determine if they call a committee and set a committee meeting so that they can look at what's being suggested by their constituents and/or your law dept., who's supposed to be there for legal advice, not to make laws with the input of Council Members and/or the constituents. Am I correct in that?

DIRECTOR SPON: Yes, you're correct on that.

MR. JEFFERSON: And this has kinda been happening. The Law office is putting legislation out without checking with Chairpersons to get an opportunity to call a meeting to give their constituents and other Council members to have input into making these laws.

DIRECTOR SPON: Who else is on the Zoning Committee? There's no intent to avoid anybody.

MR. LAWRENCE: That's not what I'm...

MR. MEARS: My comment wasn't about the process, but more about the change in legislation and my discussion with Director Spon. I thought there was some positive things about the revision and one of them is, if someone intends to apply for a permit, it would compel them to talk to the adjacent property owners first, rather than, I'm going to go ahead and do it and put it up and the neighbors don't like it. Then you got a problem. But, knowing going into a permit you have to have, basically, a buy in from your

neighbors. It would compel you, then, to let them know what is coming. I thought that was a positive.

MR. LAWRENCE: Once I read it, digested it, I think these are some good additions to it. But again, we've already been to Caucus with this and we've been through, what, a first reading? A first reading tonight?

PRESIDENT SCOTT: Tonight's a first reading.

MR. LAWRENCE: And we've revised it in the middle of it? Can we do that? Do you understand what I'm saying? We've already took this through committee, to Caucus and now we've revised it on the first reading? Without the committee knowing?

PRESIDENT SCOTT: Without the committee knowing?

DIRECTOR SPON: There would have to be a motion to amend it.

PRESIDENT SCOTT: That would be where it would be good if the Chairman would know when changes are made to his pieces of legislation. I think, for the Chairman of the committee that's sponsoring legislation to find out on the floor, well not on the floor tonight, but to find out, excuse the pun, back door process that this has been changed, I think is uncalled for. I think the first person that should have been contacted, after this change was proposed, would have been the chairman of that committee, the sponsor of this piece of legislation.

DIRECTOR SPON: Yeah, that's correct.

PRESIDENT SCOTT: And he was not done that. He was not notified of that. Excuse the poor grammar.

DIRECTOR SPON: What I don't know is whether or not the Clerk, I don't know, Sharon sent this to you?

CLERK YOCKEY: Correct.

PRESIDENT SCOTT: But I don't think it would have been, this was done, as you said, by "we" meaning your law dept., I think it should have been...

DIRECTOR SPON: Well it was intended to be a proposal to the committee as an amendment to the existing proposed legislation. That was the intent. But what happened, apparently, is it was sent, cuz I haven't seen exactly what was sent to Clerk of Council, I don't think. I've seen it before but I don't know what was sent, so to clarify it, there was no intent to avoid committee members. The intent was to make the proposed amendment, give it to the appropriate Council committee, have them look at it and then they can decide whether they want to have a motion to amend what's previously decided.

PRESIDENT SCOTT: Well, what's done is done, but I would like to say that in the future that this should be followed, that if there's any changes...

DIRECTOR SPON: And that's the way we normally do it but...

PRESIDENT SCOTT: But it should be notified through the...

DIRECTOR SPON: Sure.

PRESIDENT SCOTT: So I think we do need a motion on the floor tonight to amend, what a minute, I'm getting ahead of myself. We're not at that point. When we get to this during Council, that will be when we can make a motion to amend this piece of legislation.

SUSPEND RULES

MR. LAWRENCE: 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. Jefferson. The vote was taken and resulted as follows: Ayes: 6, Nays: 0.

LEGISLATION

AUTH SSD ENTER CONTRACT TO IMPROVE HVAC SYSTEM

BY: MR. VAN HARLINGEN

ORDINANCE 17-023

Authorizing the Safety-Service Director to enter into a contract or contracts for the improvement of the HVAC system located at the Mansfield Municipal Building, and declaring an emergency.

Upon motion by Mr. Van Harlingen that Bill 17-020 be read and placed upon the floor for discussion, seconded by Mr. Jefferson. The bill was placed upon the floor for final passage, seconded by Mrs. Pender. The vote was taken and resulted as follows: Ayes: 6, Nays: 0. Ayes: Bryant, Jefferson, Lawrence, Mears, Pender and Van Harlingen.

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

AMEND CHAPTER 505 – KEEPING OF CHICKENS – 1ST READING

BY: MR. LAWRENCE

ORDINANCE 17-024

Amending Sections 505.02 and 505.08 and enacting Section 505.021 of the Mansfield Codified Ordinances of 1997 to allow for the keeping of chickens on residential property smaller than three acres.

Upon motion by Mr. Lawrence that Bill 17-024 be given a first reading and placed upon the floor for discussion, seconded by Mr. Jefferson. The bill was given a first reading.

MAYOR THEAKER: Are you saying this is the amended version? No, we're not there yet.

PRESIDENT SCOTT: We're still on the first...

MAYOR THEAKER: I didn't want something to be...

PRESIDENT SCOTT: As originally submitted. Now it would be up to Council, if they wish, to amend it or keep it as originally submitted.

Mr. Bryant made motion to amend the bill.

MR. LAWRENCE: I have a question to that amendment. There's some things that I would like taken out, the property value part. Is that something we can discuss the next Caucus or send it back to committee?

PRESIDENT SCOTT: You can take it out now if you want.

MAYOR THEAKER: Since you're going to amend it, you can amend it any way you want.

MR. VAN HARLINGEN: I'm not a member of the committee but I believe I would be within the rights to pull this bill and send it back to committee for the next Council meeting, make your amendments, the discussions, whatever you need to do and put it back on the floor.

PRESIDENT SCOTT: I think that would be the smart thing to do.

Mrs. Pender seconded the motion

MR. BRYANT: I cancel my motion.

PRESIDENT SCOTT: It died for lack of a second anyway.

MR. LAWRENCE: If we take this back to committee, we would have a committee meeting next Council meeting, then I could pull it out of committee and we would move forward with it...

CLERK YOCKEY: You can have a committee meeting any time you want, you don't have to wait til next Council.

PRESIDENT SCOTT: Anytime. You don't have to wait til, for 2 weeks.

DIRECTOR SPON: The intent was to get it to committee, not to get it, my intent was to get it to the committee and then they could decide.

Motion passed 6-0.

DEMO – 24 WEST ARCH ST

BY: MR. LAWRENCE

ORDINANCE 17-025

Declaring the remains of a designed dwelling (24 West Arch Street) to be insecure, unsafe, structurally defective and unsafe to life and other property; directing the demolition thereof by City forces or contract labor, materials and equipment, and declaring an emergency.

Upon motion by Mr. Lawrence that Bill 17-025 be read and placed upon the floor for discussion, seconded by Mr. Jefferson. The bill was placed upon the floor for final passage, seconded by Mr. Jefferson. The vote was taken and resulted as follows: Ayes: 6, Nays: 0. Ayes: Bryant, Jefferson, Lawrence, Mears, Pender and Van Harlingen.

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

APPROP \$1,631 FROM RCA FOR DIAPER BANK PROG

BY: MR. VAN HARLINGEN

ORDINANCE 17-026

Appropriating the sum of One Thousand Six Hundred Thirty-one Dollars (\$1,631.00) from the unappropriated Regional Community Advancement Fund (#205) for the purpose of purchases for the Diaper Bank program which will be reimbursed by Community Development Block Grant monies, and declaring an emergency.

Upon motion by Mr. Van Harlingen that Bill 17-026 be read and placed upon the floor for discussion, seconded by Mr. Jefferson. The bill was placed upon the floor for final passage, seconded by Mr. Jefferson. The vote was taken and resulted as follows: Ayes: 6, Nays: 0. Ayes: Bryant, Jefferson, Lawrence, Mears, Pender and Van Harlingen.

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

**AUTH FUNDING FROM OHIO OFFICE OF CRIMINAL JUSTICE FOR
METRICH – 1ST READING**

BY: MR. VAN HARLINGEN

ORDINANCE 17-027

Authorizing the Mayor and Safety-Service Director to accept funding from the Ohio Office of Criminal Justice Services under the 2016 Subgrant in the amount of One

Hundred Thousand dollars (\$100,000) to be used for METRICH operations, and declaring an emergency

Upon motion by Mr. Van Harlingen that Bill 17-027 be read and placed upon the floor for discussion, seconded by Mr. Jefferson. The bill was read and placed upon the floor for final passage, seconded by Mr. Jefferson. The vote was taken and resulted as follows: Ayes: 6, Nays: 0. Ayes: Bryant, Jefferson, Lawrence, Mears, Pender and Van Harlingen.

MR. MEARS: I think there's a correction on the bill to be made. 2016 Subgrant?

CLERK YOCKEY: Do they run July to June maybe?

MAYOR THEAKER: That started in July. That would be 2016.

CLERK YOCKEY: I don't know. It says it down in the body too. I can check that and if it's wrong I can get it corrected with Cheryl.

MAYOR THEAKER: Just to play it safe.

PRESIDENT SCOTT: Clerk will double check and make sure what, if it supposed to 16 or 17. If it's supposed to be 17 we'll amend it to 17.

MR. VAN HARLINGEN: Thank you Mr. Mears, good catch. I'm sitting here looking at the statement for the fiscal impact and the funding period is January 1, 2017 – December 31, 2017.

CLERK YOCKEY: So it should be 2017?

MR. VAN HARLINGEN: Yea.

MR. JEFFERSON: Typo.

PRESIDENT SCOTT: Mr. Van Harlingen, do you want to change the motion to approve it as amended to 2017?

MR. VAN HARLINGEN: Yes, in reference to Bill 17-027, section 1 should reflect the grant year for 2017 beginning January 1st. Will that take care of it?

PRESIDENT SCOTT: I believe it will, yes.

MR. VAN HARLINGEN: And I will give the Clerk a copy of this if she needs it, the impact statement.

PRESIDENT SCOTT: Do we have a second to Mr. Van Harlingen's motion? Mr. Jefferson seconded the motion. Vote was 6-0.

MR. VAN HARLINGEN: Boy, I hate to back you up on this, excuse me. Reference, METRICH justice assistance grant JAG 2016.

CLERK YOCKEY: Yea, I seen that. I'll get that correct too.

MR. VAN HARLINGEN: 2016-JG-A01-6404. It refers to 2016 for the JAG grant

CLERK YOCKEY: I have it circled to get corrected too.

MR. VAN HARLINGEN: Would you please?

PRESIDENT SCOTT: We saw that and was just going to do that all...

CLERK YOCKEY: We'll do like a find and replace. All the 2016's, we'll find out if they're supposed to be 2017.

PRESIDENT SCOTT: It'll be corrected to 17 throughout wherever it needs to be. It's also down in section 1it says 2016 as well.

MR. VAN HARLINGEN: Yes, and that is the way the financial statement, fiscal impact reads, so this is probably a grant from 2016 but it was not given to the grantee, or given out til 2017. That's what we need to clarify.

CLERK YOCKEY: That's true. It might be right. Because he said it's from 2016 so this might be correct.

PRESIDENT SCOTT: It might be.

MR. VAN HARLINGEN: Let me ask this. How about if I withdraw my motion, this is scheduled for 2 readings, that'll give us 2 weeks to...

CLERK YOCKEY: Let me go dig the other one out of the trash.

MR. VAN HARLINGEN: ...until March and make it a little easier.

PRESIDENT SCOTT: So you're withdrawing Bill, for consideration tonight, for another reading in 2 weeks.

MR. VAN HARLINGEN: Correct.

PRESIDENT SCOTT: Is everybody clear of the motion?

MR. JEFFERSON: No, I'm not clear on it. He's rescinding his motion to change the numbers or rescinding his motion to.

MRS. PENDER: To vote on it tonight.

MR. VAN HARLINGEN: I'm rescinding my motion to forward this to Council tonight for a final reading so that the Clerk can further investigate and make sure that our statement of fiscal impact, the JAG assistance grant account number is proper with the legislation. The legislation was originally to have 2 readings. Caucus tonight and a first reading and passed March 7, so Mr. Director did I cover that?

MR. JEFFERSON: You're taking that motion off the table, rescinding it.

MR. VAN HARLINGEN: I'm rescinding the motion that it receives a final reading tonight for passage and we leave the dates as is until we can further investigate.

PRESIDENT SCOTT: The clarity of what the dates should be.

Mrs. Pender seconded the motion.

CLERK YOCKEY: I'm just going to add one little thing. I read it so it did get go to Council so we'll have to consider this the first reading.

MR. VAN HARLINGEN: That is correct. So we have 2 weeks to further investigate to make sure the dates are proper.

PRESIDENT SCOTT: It's been moved and seconded, Council will now cast their vote on the motion.

CLERK YOCKEY: You took away the motion. You don't have anything to vote on right now.

MR. VAN HARLINGEN: We have to vote on the motion, right?

PRESIDENT SCOTT: That's what I thought but I'm being told by the Mayor we don't have to.

AUTH SSD ENTER CONTRACT FOR 2017 SANITARY SEWER INFLOW AND INFILTRATION REDUCTION PHASE II

BY: MR. VAN HARLINGEN

ORDINANCE 17-028

Authorizing the Safety-Service Director to advertise for bids and enter into a contract or contracts for the 2017 Sanitary Sewer Inflow and Infiltration Reduction Project Phase II.

Upon motion by Mr. Van Harlingen that Bill 17-028 be read and placed upon the floor for discussion, seconded by Mr. Jefferson. The bill was placed upon the floor for final passage, seconded by Mr. Jefferson. The vote was taken and resulted as follows: Ayes: 6, Nays: 0. Ayes: Bryant, Jefferson, Lawrence, Mears, Pender and Van Harlingen.

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

AUTH SSD ENTER CONTRACT FOR REPAIR OF WATER STORAGE TANKS

BY: MR. VAN HARLINGEN

ORDINANCE 17-029

Authorizing the Mayor, Safety-Service Director to negotiate and enter into a professional services contract or contracts for multi-year asset management including the engineering, repair, sustainability, water quality management, and maintenance of water storage tanks and appurtenant facilities, and declaring an emergency.

Upon motion by Mr. Van Harlingen that Bill 17-029 be read and placed upon the floor for discussion, seconded by Mr. Jefferson. The bill was placed upon the floor for final passage, seconded by Mr. Jefferson. The vote was taken and resulted as follows: Ayes: 7, Nays: 0. Ayes: Bryant, Jefferson, Lawrence, Mears, Pender and Van Harlingen.

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

AUTH LEASE WITH ASHLAND RAILWAY FOR 5.5 ACRES @ 500 N. MAIN ST

BY: MR. JEFFERSON

ORDINANCE 17-030

Authorizing the Richland County Growth Corporation on behalf of the City of Mansfield to enter into a certain lease with Ashland Railway, Inc. for 5.5 acres at 500 N. Main Street, Mansfield, Ohio, and declaring an emergency.

Upon motion by Mr. Jefferson that Bill 17-030 be read and placed upon the floor for discussion, seconded by Mrs. Pender. The bill was placed upon the floor for final passage, seconded by Mrs. Pender. The vote was taken and resulted as follows: Ayes: 6, Nays: 0. Ayes: Bryant, Jefferson, Lawrence, Mears, Pender and Van Harlingen.

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

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

Amy Yockey
Clerk of Council

Phillip Scott
President of Council