

MINUTES OF A REGULAR MEETING OF COUNCIL

CITY OF GARFIELD HEIGHTS, OHIO

Monday, January 26, 2009

MEETING CALLED TO ORDER AT 7:00 p.m. by President Frank J. Wagner.

INVOCATION BY: Councilwoman Debra Sarnowski

ROLL CALL: **PRESENT:** President Frank J. Wagner
Council Members Dudley, Marincic, Liotta,
Sarnowski, Suster, Mahoney, Otero

CLMN SUSTER: Mr. Chairman, I'd like to make a motion that we have Sharon Overturf be our temporary Clerk for this evening because Barb is off ill.

PRESIDENT WAGNER: On the motion by Clmn Suster to appoint Sharon as our temporary Clerk today.

AYES: 7.

READING AND DISPOSAL OF MINUTES:

Moved by Clmn SUSTER to accept the minutes of the Regular Meeting of City Council of January 12, 2009 as submitted. The minutes were adopted with seven YES votes.

WRITTEN COMMUNICATIONS TO COUNCIL: None.

LEGISLATION OUT OF COMMITTEE: None.

REPORTS OF THE MAYOR AND DIRECTORS:

MAYOR THOMAS LONGO: Good evening, Mr. Wagner, Members of City Council. This week two events started to unfold that could have a long range impact on the financial health and well-being of our community. The first, an application to extend Transportation Blvd. to Rockside Road, has been filed with the Ohio EPA. This application is being closely monitored. Two, a developer has come forward to pick up the Bridgeview project. They are doing their due diligence as we speak. They are considering breaking the project into segments. As plans progress we will keep you of course, informed.

Referring to tonight's agenda. Ordinance 1 of course, is up for second reading. I urge Council to adopt this legislation and make some modest fee adjustments to our Recreation Center.

Resolution 9-2009, the right to life issue should not be an issue. Killing the unborn should not be made legal in our country. Resolution 5. It appoints Mr. Ed Stanzas to our Civil Service Commission to

replace Claudia Bowling. Claudia moved out of the city. Ed's family has a strong history with service in the safety vocations. He's going to have a lot of people over his shoulders instructing him. He will be a valuable resource for the Civil Service Commission and he wants to do it. Resolution 6 appoints Megan Hutton to the Planning Commission. She has a degree in architecture and is in the process of obtaining certification as an architect. She wants to contribute to the future of our community. She wants to know all about all the plans and what we're doing, etc., etc. so she's bringing a strong discipline to the Planning Commission. This concludes my report.

PRESIDENT WAGNER: Any questions of the Mayor? I have one question for you in regards to what you brought up about Bridgeview. The Lifeline Screening when we did the eminent domain of that? I understand that the City's going to pay their legal fees now? For \$35,000.00?

MAYOR THOMAS LONGO: I haven't heard that. Where'd you get that from?

PRESIDENT WAGNER: A motion filed in the Court. It was an agreement you signed.

MAYOR THOMAS LONGO: It was an agreement that was filed with the Court. It's part of our development agreement. It's part of the package that Snider/ Cannata were going to pick up.

PRESIDENT WAGNER: Because it says that the City shall pay the Lifeline Screening for the sum of \$35,000.00 as for the legal fees, on or before December 31, 2008. Now Bridgeview is going under. They're not going forward.

MAYOR THOMAS LONGO: Where did you hear that Bridgeview was going under?

PRESIDENT WAGNER: You just mentioned a new developer's coming in.

MAYOR THOMAS LONGO: A new developer, right.

PRESIDENT WAGNER: Are we responsible for the \$35,000.00?

MAYOR THOMAS LONGO: What's strange that I hear going on here is that every time something happens we start dealing with phony money and this is another one of those issues.

PRESIDENT WAGNER: It's not phony, Mayor. It's something that's before the Court. I'm just asking you.

MAYOR THOMAS LONGO: Listen to me. When an issue comes up you always look at it from the standpoint as to how you personally can benefit from it politically.

PRESIDENT WAGNER: No, I'm worrying about the taxpayers paying for it.

MAYOR THOMAS LONGO: I look at it as to how the City can benefit from it. We have had how many properties through eminent domain? There's been over 60 down through there. It has not cost the City one cent.

PRESIDENT WAGNER: Ok, Lifeline Screening left the City. We evicted them. We lost \$200,000.00 in income tax to the City. Now we have a bill for \$35,000.00 that the taxpayers are going to have to spend and pay for while we're looking at possibly laying off employees. Cutting services. My only question is this. Has the bill been paid and are we responsible for it?

LAW DIRECTOR DAVID MACK: Let me respond to that by saying, Mr. Wagner, if you have to ask

the question you obviously have not researched it and read the legislation that this Council and prior Councils have passed because this Council and prior Councils have passed the development agreement that completely eliminates the City from paying anything under the terms of the development agreement. As the Mayor said, when the eminent domain lawsuits were filed they were filed under the name of the City because of the development agreement. The City put up no money, no court costs, and no attorney fees. All attorney fees are to be paid by the developer including the attorney fees of the City were paid by the developer. There is no money that is at risk. No taxpayer money. And you should have known this as Council President if you would have read the agreement and done the research.

PRESIDENT WAGNER: I do know it and understand it that that's what it's supposed to be. We also have a bill for \$600,000.00 from Squires that is looking to be paid by March.

MAYOR THOMAS LONGO: Here we go again. Chicken Little. The sky's falling. What did I?

PRESIDENT WAGNER: Mayor, it has nothing to do with that.

MAYOR THOMAS LONGO: Yes, it does. What did I just say? We have a development agreement. You have a TIF that's in place; you have a bank that's financed everything. Do you think the bank is going to allow?

PRESIDENT WAGNER: No, that's why the bank filed in Common Pleas Court to get their \$29 million.

MAYOR THOMAS LONGO: Listen to me. You're not listening. You think that bank's going to let \$22 million go out the back door when they can bring somebody else in? Or that Snider/Cannata can't bring somebody else? I just told you what was going on. So far the City has not paid a dime. And if this thing holds true, we're not going to pay anything.

PRESIDENT WAGNER: Thanks. That's what I wanted to hear. That we're not going to pay anything. Any questions?

CLWN MARINCIC: Mayor, you said the new developer? Does that mean the Council might have to pass a new TIF or will the other one still be OK?

LAW DIRECTOR DAVID MACK: If I could respond to that? From what we were told by our legal counsel, our bond counsel, that the TIF would go along with the new developer if they took it over. They would be held to the same standards as the one Council passed. If anything would need to be done, we'd hear from Pam Hanover, Barry from Squires but they seem satisfied at this point that there would not be any further need for a counselmatic action.

CLWN MARINCIC: Excellent. That's good news. Thank you.

LAW DIRECTOR DAVID MACK: No report.

SERVICE DIRECTOR TIMOTHY McLAUGHLIN: Absent.

PARKS AND RECREATION DIRECTOR JAMES BUKAC: I just want to see if something can be put in the media? This is the last week to sign up for our Futsol Program, which is our indoor soccer that will be played over at the middle school. The program will start around the middle of February and we're taking signups through this coming Saturday. I'd like to urge Council to continue what we started two weeks ago in passing second reading of Ordinance 1, which will readjust the Recreation Fees. As I said last meeting it will be our first change for any residents since 2003 and for any non-residents since 2005

and it's overdue as prices for uniforms, etc. have all gone up through years. That concludes my report.

BUILDING COMMISSIONER WILLIAM WERVEY: Absent.

ECONOMIC DEVELOPMENT DIRECTOR NOREEN KUBAN: The Tax Incentive Review Council for this year will be held on March 16th, which is a Monday, at 9:00 a.m. in these chambers. That concludes my report.

CITY ENGINEER DAVID NEUMEYER: Absent.

FINANCE DIRECTOR RICHARD OBERT: No report.

CITY ARCHITECT DAVID SPEHAR: No report.

COMMENTS BY CITIZENS:

PRESIDENT WAGNER: That completes the reports of the Mayor and the Directors. Next we'll move on to Comments by Citizens on tonight's agenda. Comments shall be strictly limited to a brief statement not to exceed five minutes with comments limited to the legislation on the current evening's Council agenda and no citizen shall speak more than once. Is there anyone wishing to address Council on tonight's agenda? There being none, let's move on to Committee Reports. I understand there's a report from the Finance Committee?

COMMITTEE REPORTS:

CLMN SUSTER: Thank you, Mr. Chairman. I'd just like to make one announcement. We have a Finance Meeting tomorrow night at 7 o'clock here in the Caucus Room. Also our Tuesday, February 3rd meeting has been changed. It will be held on Wednesday, February 4th instead of Tuesday, February 3rd. That again will be here in the Council Chambers at 7 p.m. So that's from Tuesday, February 3rd to Wednesday, February 4th. That's all I have. Thank you.

ORDINANCES AND RESOLUTIONS:

PRESIDENT WAGNER:

AYES: 7

PRESIDENT WAGNER: Ordinance 1-2009 passes on the second--seven Yes votes.

ORDINANCE NO. 03-2009

AN ORDINANCE FIXING THE SALARIES OF THE WARD COUNCIL MEMBERS OF THE CITY OF GARFIELD HEIGHTS.

Moved by MARINCIC to CONSIDER BY TITLE:

AYES: 7

Motion to SUSPEND THREE READING RULE:

AYES: 7

VOTE ON ADOPTION:

CLWN MARINCIC: Before I vote, I would like to say that during this period in our City when the finances are so tight, I believe that City Council needs to show all City employees that the City Council, too, is willing to give back to our community. We all need to work together toward one goal and that is a stable financial future for our City and all of its residents. If this legislation should pass tonight I believe it will send that message to our employees and our community. It is time we put our money where our mouth is and show how well and how much this City Council wants to work together for the betterment of our entire community and I think that myself and Clwn Mahoney, with her legislation, both had the same idea here. And I vote Yes.

CLWN MAHONEY: Before I vote, I also would like to commend Clwn Marincic on her legislation. I'm voting Yes on this piece knowing that the very next piece is a piece of legislation I sponsored to rescind the raise of this Council. I intend to vote Yes on both pieces because I'm not sure which one will pass. So with that I vote Yes.

AYES: 7

ORDINANCE NO. 04-2009

AN ORDINANCE FIXING THE SALARIES OF THE WARD COUNCIL MEMBERS AND COUNCIL PRESIDENT OF THE CITY OF GARFIELD HEIGHTS, OHIO.

Moved by MAHONEY to CONSIDER BY TITLE:

CLMN DUDLEY: No.

PRESIDENT WAGNER: Before we continue with the roll call, if I could just make a parliamentary pointing out of procedure.

CLMN DUDLEY: Correction. Yes, Yes, Yes.

PRESIDENT WAGNER: Consider by title just allows the Clerk to read it by the title and not in its entirety. So, so far, your vote is a No vote, Councilman?

CLMN DUDLEY: No. Yes. Let her read.

AYES: 6

NAYS: 1

Motion to SUSPEND THREE READING RULE:

AYES: 7

VOTE ON ADOPTION:

CLWN MARINCIC: Mr. Chairman, if I vote Present which way does my vote go?

PRESIDENT WAGNER: It would indicate no vote at all according to the Rules of Council.

CLWN MARINCIC: Present.

CLMN SUSTER: Before I vote I'd like to say that one of the differences in this ordinance vs. the one Nancy put up is that the office of Council President was included in this, which is another \$16,000.00. By giving back, if the seven members of Council and the Council President, if this passed that would be \$16,000.00 vs. the one that Nancy had put up which I commend her for that's only \$5,775.00. I think at one time somewhere down the road we have to take a look at how many members we actually have on Council and possibly eliminate one or two Wards because when Council was set up in 1960 there were approximately 60,000 residents in the City of Garfield Heights and now all we're up to is about 29,000. So we should take a look at that and also that would have to be a Charter change and also the possibility of maybe doing away with the position of President of Council, which would be another \$16,000.00. And I vote Yes.

PRESIDENT WAGNER: Before I announce the vote just so it's cleared on the record, the Council does indeed try to show their support in doing whatever it can to help reduce the burden on the City. Fiscally, my portion of the raise that I'm receiving this year at the end of each month I'm writing a check back to the City of Garfield Heights to Dick Obert for it. With that the Ordinance 4-2009 is defeated for lack of formative votes so Ordinance 4-2009 does not pass. It's defeated.

AYES: 3

NAYS: 2

PRESENT: 2

RESOLUTION NO. 04-2009

A RESOLUTION URGING THE UNITED STATES CONGRESS NOT TO SUPPORT THE FREEDOM OF CHOICE ACT.

Moved by SARNOWSKI to CONSIDER BY TITLE:

AYES: 7

Motion to SUSPEND THREE READING RULE:

AYES: 7

VOTE ON ADOPTION:

AYES: 7

RESOLUTION NO. 05-2009

AN EMERGENCY RESOLUTION RATIFYING AN APPOINTMENT BY THE MAYOR OF EDWARD STANZESKI TO FILL THE UNEXPIRED TERM OF CLAUDIA BOWLING AS A MEMBER OF THE CIVIL SERVICE COMMISSION OF THE CITY OF GARFIELD HEIGHTS, OHIO, FOR THE TERM EFFECTIVE JANUARY 26, 2009 AND ENDING DECEMBER 31, 2011.

Moved by SUSTER to CONSIDER BY TITLE:

AYES: 7

Motion to SUSPEND THREE READING RULE:

AYES: 7

VOTE ON ADOPTION:

CLMN SUSTER: Before I vote, I'd like to say I've known Ed Stanzaski for about the past 25 years. He's a very conscientious individual and he's been wanting to get involved in the City for quite a few years. On that I vote Yes.

AYES: 7

RESOLUTION NO. 06-2009

AN EMERGENCY RESOLUTION RATIFYING AN APPOINTMENT BY THE MAYOR OF MEGAN HUTTON AS A MEMBER OF THE PLANNING COMMISSION OF THE CITY OF GARFIELD HEIGHTS, OHIO TO FILL THE UNEXPIRED TERM OF JOSEPH FECKANIN DURING THE PERIOD COMMENCING JANUARY 26, 2009 AND ENDING DECEMBER 31, 2012.

Moved by SARNOWSKI to CONSIDER BY TITLE:

AYES: 7

Motion to SUSPEND THREE READING RULE:

AYES: 7

VOTE ON ADOPTION:

AYES: 7

COMMENTS BY CITIZENS:

PRESIDENT WAGNER: That concludes the legislation before Council this evening. Next we'll move on to Comments by Citizens. Comments shall be restricted to any problem a citizen has which has previously been submitted to his or her Councilperson or to the City Hall department directly involved. If the submission of a problem to a City Hall department or a Councilperson is made and there is a lack of service rendered in this regard the problem may then be presented during Comments by Citizens at a future meeting. It is the intention of this rule that no request of a first nature is presented on the floor at this time. Comments shall be limited to five minutes and no citizen shall be heard more than once. Is there anyone wishing to address Council this evening?

Mildred Whitmore, 13154 Forestdale Drive. I moved in Garfield July 1, 1971. I'd like to know why is it that the City lets the residents tear down garages and don't replace them? Doesn't this depreciate the property?

PRESIDENT WAGNER: The Building Commissioner's not here. Maybe you could get a response from the Law Director? Mr. Mack, if you could?

LAW DIRECTOR DAVID MACK: That issue was brought up one time before and there we did a lot of research on that issue and it depended upon when the home was built because when the home was built keyed in whether or not you had to have a garage. I can't remember--this came up about 7, 8, 9 years ago—but there are very few homes that are permitted to tear down garages and not rebuild them. I would suggest to this lady here that if there are homes that's happening to we might not be aware of it and she ought to contact the Building Department and let them know.

MS. WHITMORE: There's four or five right down on Forestdale.

PRESIDENT WAGNER: Ms. Whitmore, you could contact Mr. Wervey. I'm sure he'll need to be aware of it, and he'll work with Mr. Mack and, Mayor, is there anyone else you'd like her to contact?

MAYOR THOMAS LONGO: If you get the addresses, give me my office a call. Or if you have them now, give them to me after the meeting.

LAW DIRECTOR DAVID MACK: We'll check them out but if they're older homes some times they're not required to because at the time they were built they were not required to have them.

MS. WHITMORE: These were built in 1954 and they had garages when they all moved there.

CLWN MARINCIC: Mr. Chairman, the way I understood the law, and I'm not absolutely positive, but I had researched it once many years ago and I think it's like '48 or '49. If the house was built before that without a garage it did not have to have one. But if they ever build a garage and it was built before that and then they tear it down they're responsible for putting up a new one.

LAW DIRECTOR DAVID MACK: I think you're right. I think that's how the research went because I think you were involved in it at that time?

CLWN MARINCIC: Yes, I was.

LAW DIRECTOR DAVID MACK: And we'd looked that up.

CLWN MARINCIC: Yes, but if they built one after that, even though it was built before '49 the house without it, they still had to replace the garage. If there was one, they have to replace it.

LAW DIRECTOR DAVID MACK: Right.

PRESIDENT WAGNER: So it sounded like if the garage was torn down it needs to be replaced. So you need to get those addresses to the Mayor's office or the Building Department.

LAW DIRECTOR DAVID MACK: The other thing that might be happening, as you know we've got a lot of problems with vacant homes in Garfield Heights. The Building Department has literally been citing everybody under the sun. Once it gets into the Court, then we hear the argument I don't have money to do

it and the Judges, justifiably so, will say, look we'll give you 90 days or we'll give you till spring to do this —build a garage or whatever needs to be done. The Judges have to not only enforce the law but have to have some compassion because people are hurting. So that might be the case? I don't know. If you get those addresses to the Mayor we'll look into that and get back to you on that, Ma'am.

MS. WHITMORE: There's something else. Your little handbook. I'm not stating verbatim but it says if your neighbor's tree would say fall in my yard, then it's my responsibility to clean it up. Why is this logic?

PRESIDENT WAGNER: Again, Mr. Mack, I'll refer to you.

MAYOR THOMAS LONGO: I don't think that's right.

LAW DIRECTOR DAVID MACK: I'm not so sure that's right. We've had problems around here with trees that grow over into somebody else's yard and the neighbor will cut the branch down and we've had lots of those, but if your tree. If my tree falls on my neighbor's house and damages my house I'm responsible for that. You know there's no two ways about it. So if my tree falls in his yard, and it does not damage his house I'm still responsible for the cleanup.

MS. WHITMORE: Why are you responsible for your neighbor's tree?

LAW DIRECTOR DAVID MACK: No, I'm saying if it's my tree and it falls in my neighbor's yard I'm responsible for the cleanup. No different than if it fell on his car or his house. It would be my responsibility to compensate him if my tree fell over and hit it.

MS. WHITMORE: Because I have a tree from my neighbor's yard and it's over three foot tall and the big limbs on that tree already done fell over in my yard, but luckily the owner he came over and cleaned up the mess, but I'm just wondering if this tree falls over in my yard which I have a big slab there and I have a big brick barbecue pit there. I don't want my stuff (*inaudible*).

LAW DIRECTOR DAVID MACK: That's what I just said. If it damages your property then the other person is supposed to compensate you for it.

MS. WHITMORE: I must have read your handbook wrong then.

LAW DIRECTOR DAVID MACK: If you have any questions you can call my office. The Law Department's office and if I'm not there I'll get back to you or one of the other people.

MS. WHITMORE: Thank you.

PRESIDENT WAGNER: Thank you. Anyone else wishing to address Council this evening? There being none, we'll move on to Miscellaneous Business. We'll begin today with Ward 5, Clmn Suster.

MISCELLANEOUS BUSINESS:

CLWN SARNOWSKI: This is my first time. I move to adjourn the meeting.

PRESIDENT WAGNER: On the motion by Clwn Sarnowski to adjourn the meeting?

AYES: 7

MEETING ADJOURNED AT 7:30 p.m.

APPROVED:

RESPECTFULLY SUBMITTED:

Frank J. Wagner
President of Council

Barbara Molin
Clerk of Council