

REGULAR SESSION

December 10, 2009

The Council of the City of Chardon met in Regular Session Thursday, December 10, 2009 at 6:30 P.M. in Council Chambers of the Chardon Municipal Center.

Karen Simpson, President of Council presiding.

The meeting opened with the pledge of allegiance and roll call.

Members of Council present: Leslie Bednar, Mary Bramstedt, Jefferey Campbell, Jr., Robert Cromwell, Philip King, Deborah Reiter, Karen Simpson.

Members of Council absent: none.

Others present: City Manager David Lelko, Finance Director Jeffrey Smock, Law Director James Gillette, Planning and Zoning Administrator John Sheehan, Police Chief Tim McKenna, Assistant City Manager Randy Sharpe, Clerk of Council Amy Day, City Engineer Doug Courtney, William Hess, Jr., Ken Ovark, Ed Ferrall, Larry Gaspar, Glen Miller, Nancy McArthur, Ame Taton, Tom Nolfi, Mitch Hewitt, Cheryl Curry, Betsy Scott, Bill Jackson, Michael Chauby, Dennis Pavella, Paula Noyes, John Mallen, Arlene Hill.

**APPROVAL OF MINUTES**

Mr. King moved and Mr. Campbell seconded to approve the minutes of the October 26, 2009 Special Session, November 9, 2009 Special Session, November 12, 2009 Special Session and November 12, 2009 Regular Session as presented. Upon roll call vote the motion passed unanimously.

**MANAGERS REPORT**

City Manager David Lelko reported that changes have been made to the City's Public Records Retention and Destruction Policy to comply with the State Auditor's requirements. Council's approval is necessary to implement the changes.

Mr. Campbell moved and Mrs. Bednar seconded to approve the amendments to the City's Public Records Retention and Destruction Policy. Upon roll call vote the motion passed unanimously.

**PLANNING COMMISSION REPORT**

Mr. King reported that Planning Commission met and recommended approval of the bike plan and approved the Maple Leaf Plaza sign variance.

**COUNCIL COMMITTEE REPORTS**

Safety - none.

Service - none.

Water/Sewer

Mr. King inquired about the status of the Wilson Mills Sanitary Sewer Project.

Doug Courtney reported that the final walk-thru has been completed.

Mr. King asked if the deadline for the three year tie-in has begun for residents to connect to the sewer.

Mr. Courtney stated that the deadline has not begun as all of the invoices have not yet been received from the project contractor.

Mrs. Reiter asked if the homeowners will be notified of the tie-in date.

Mr. Sheehan stated that the homeowners will be individually notified.

Park/Recreation -

Mrs. Retier reported that the Park and Recreation Board met and discussed the master plan for Michael Ibold Park. A wetlands study was conducted by Cynthia Paschke of the property in 1998 but it was never submitted to the Army Corp of Engineers. The Board recommended that Ms. Paschke do a reassessment of the property and have it sent to the Army Corp of Engineers for a jurisdictional determination.

Mrs. Reiter moved and Mr. Campbell seconded to hire Cynthia Paschke to conduct a wetlands study of Michael Ibold Park.

Mr. Courtney reviewed what is involved with a jurisdictional determination.

Mrs. Reiter moved and Mr. Campbell seconded to amend the motion to for the study not to exceed \$3,500.

Upon roll call vote the motion passed unanimously.

Mrs. Reiter reported that the Park and Recreation Board has recommended that a master plan for Mel Harder Park be completed due to the amount of wetlands that has been discovered at Michael Ibold Park.

Mrs. Reiter moved and Mr. Campbell seconded to proceed with the Mel Harder Park master plan.

Mr. Lelko stated that there is money in the budget for the plan.

Upon roll call vote the motion passed unanimously.

Mrs. Retier reported on ongoing recreational programs.

Mrs. Retier requested Council view the community calendar on the City's website for their feedback regarding what should be included on the calendar.

Legislative - none.

Finance - none.

**HEARING OF PERSONS BEFORE COUNCIL**

THOSE PERSONS ON THE AGENDA - none.

GENERAL PUBLIC - none.

**OLD BUSINESS**

A RESOLUTION DECLARING THE INTENT OF THE CITY TO APPROPRIATE A PORTION OF THE REAL PROPERTY KNOWN AS GEAUGA COUNTY AUDITOR'S PARCEL NO. 10-047300 IN ORDER TO CONSTRUCT AN EXTENSION TO MEADOWLANDS DRIVE, AND DECLARING AN EMERGENCY was read for the second time by title only.

**NEW BUSINESS**

Regarding an Announcement of Decision regarding the Chardon bikeway and pedestrian trail plan, Mr. King moved and Mrs. Bednar seconded for the adoption of the plan.

Mrs. Bednar stated that Council received an addition that was created based on public comment and Planning Commission discussion which was titled Commitment by City Council which she recommended be included in the bikeway and pedestrian trail plan.

As implementation of the plan proceeds, City Council is committed to protecting property rights and it is Council's intention to only use private property for any portion of the system only with the cooperation of the affected property owners. The City will focus on two first priorities being the bikeway connection of the north and south termini of the Maple Highlands Trail and sidewalk improvements in all residential areas. The connection of the Maple Highlands Trail will be the focus in developing the trail system and all other bikeway segments will be further evaluated after the Maple Highlands Trail termini connection has been initiated and only pursued with the support and consensus of the property owners.

Mr. King asked if these statements give the community a sense of commitment from Council that has some legal teeth to it.

Mr. Gillette stated that the plan is similar to the Comprehensive Plan in that it includes Council's stated goals and objectives at this point in time. In addition, in order for Council to go onto someone's property, they would need the legal authority to do so and he explained that eminent domain could be used for recreational purposes.

Council discussed how future Council's could choose to change their minds about private property rights.

Mr. Campbell stated that being in a plan, it makes it more of a reality.

Mr. Cromwell stated that years down the road property owners may look at a bike plan differently.

Mrs. Reiter stated that does not want the plan to push other projects aside.

Mr. King stated that his concern is that Council will not go on anyone's property without their consent.

Mr. Campbell stated that property owners that see the bike path is on their property, are very concerned. He added that he would like to have seen the residents that would be directly affected by the path invited to the meetings.

Members of Council expressed that they would invite the residents to a meeting at the point that a path is determined to be a viable option.

Mr. Campbell stated that he feels this point would be too late in his opinion as a plan would have already been created.

Mrs. Bednar stated that she believes that the residents would be contacted before this point.

Ken Ovark, 334 Irma Drive, who served on the bike trail

committee, spoke to express that he does not feel that money should be spent on a bike path.

Dennis Pavella, 493 South Street, who served on the bike trail committee, stated that the majority of the committee felt that connecting the Maple Highlands Trail and sidewalks were their main priorities. Property owner's rights concern him as a portion of the proposed trail would go on his property.

Mr. Pavella stated that even though this Council states that they would not pursue eminent domain, this does not mean that a future Council would not. In addition, he felt that the residents that would be directly affected by the bike path should have been notified.

Mrs. Bednar asked how Mr. Pavella feels about sidewalks since there is a need for one in front of his home.

Mr. Pavella stated that he agrees that there is a need for a sidewalk in front of his home; however, he is concerned that he does not want to bear the responsibility for the cost of installing a sidewalk.

Mrs. Bednar asked if Mr. Pavella feels the City's existing regulations which require homeowners to be responsible for sidewalk in front of their property is wrong.

Mr. Pavella stated that he does not think he should have to pay for putting a sidewalk in because someone else has developed their property.

Mr. King stated that he has spoken with a few people who own property along the proposed alternate route who have expressed that they want their property rights protected. The issue is whether Council is taking a strong enough stance to protect their rights.

Mr. Pavella stated that the Law Director has indicated that the property could be taken by eminent domain.

Mr. Campbell stated that the proposed alternate plan should be removed from the plan so the plan can be agreed on by all of Council.

Tim Kempffer, 130 Court Street, stated that he served on the bicycle trial focus group and it was felt that connecting the Maple Highlands Trail and sidewalks were important to the group. The rest of the plan is a waste of money.

William Hess, 115 North Street, stated that he is disturbed that there was not much concern by Council when his sidewalk was in disrepair but it seems as though there is concern about sidewalks that are in the bike plan. He felt that everyone needs to be treated the same.

Mayor Simpson stated that she thought that repairing and connecting the gaps of sidewalks were going to be part of the plan. Right now, it is the responsibility of the homeowner but it will be up to future Councils to decide how to proceed with the maintenance of sidewalks.

Mrs. Bednar stated that all sidewalks have equal weight and importance and she hopes that Council will be able to address sidewalk maintenance in the near future. She added that there is no priority of sidewalk when it comes to bike usage.

Mrs. Bramstedt recommended mini-committees be formed to address targeted areas of sidewalk that need repaired.

Mr. King asked if removing the proposed alternate route from the plan would affect the City's ability to obtain funding for the plan.

Mr. Sharpe stated that as long as there is a trail plan with priorities and options, he thinks the plan would be fine; however, the threat of eminent domain will always be there.

Mr. Cromwell asked if the Maple Highlands Trail connection and the sidewalk connections were only to remain on the plan with a general statement of connecting point A to point B in the future would have a negative affect on funding. He suggested that the specific route be determined by future residents and members of Council so that it can be appropriate for the time which would be priority #3. He asked if the plan could be changed without repercussions.

Mr. Sharpe stated that the more substance the plan contains, the better the chances may be for funding.

Mr. Cromwell stated that he would like it to be rewritten but if there is not enough time and there is a chance that NOACA funding could be lost, he is willing to accept the plan with Mrs. Bednar's addition.

Tom Nolfi, 134 Moffet Ave., spoke in support of connecting the Maple Highlands Trail.

Mr. Cromwell recommended that the plan be revised so that the location of the routes are generally described.

Mr. King asked Mr. Sharpe if he felt there was enough time for D.B. Hartt to make the corridors more general.

Mr. Sharpe stated that he would recommend getting an extension from NOACA and then have Council discuss the changes that D.B. Hartt would need to make to the plan.

Mr. Gillette stated that it would have to be sent back to Planning Commission if extensive changes are made to the plan.

Mr. King withdrew his motion and Mrs. Bednar withdrew her second.

Mr. King moved and Mrs. Bednar seconded to table the announcement of decision regarding the Chardon bikeway and pedestrian trail plan to the next regular session of Council. Upon roll call vote the motion passed unanimously.

## **LEGISLATION**

### **RESOLUTION NO. 27-09**

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 was read for the first time by title only.

Mr. Cromwell moved and Mrs. Reiter seconded the rules be suspended and the Resolution be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Resolution No. 27-09 was then read for the second and third time by title only.

Mr. Campbell moved and Mr. King seconded for the adoption of Ordinance No. 27-09.

Upon roll call vote the motion passed unanimously.

**ORDINANCE NO. 2563**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE WITH THE CHARDON VOLUNTEER FIRE DEPARTMENT, INC., AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. King moved and Mrs. Reiter seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2563 was then read for the second and third time by title only.

Mrs. Bramstedt moved and Mr. King seconded for the adoption of Ordinance No. 2563.

Mr. King asked if the rental cost was the same cost as the previous term.

Mr. Sharpe stated that the rental cost was unchanged from the previous rental period.

Upon roll call vote the motion passed unanimously.

**ORDINANCE NO. 2564**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT/AGREEMENT WITH THE CHARDON VOLUNTEER FIRE DEPARTMENT, INC. FOR PROVIDING EMERGENCY SERVICES TO THE CITY OF CHARDON FOR THE YEARS 2010-2012 AND DECLARING AN EMERGENCY was read for the first time by title only.

Mrs. Reiter moved and Mr. King seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2564 was then read for the second and third time by title only.

Mr. Campbell moved and Mr. Cromwell seconded for the adoption of Ordinance No. 2564.

Mr. King asked if the amount is based on the recent fire levy that was passed.

Mr. Smock stated that the levy will pay the City's portion of the cost of emergency services.

Upon roll call vote the motion passed unanimously.

**ORDINANCE NO. 2565**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT/AGREEMENT WITH THE CHARDON VOLUNTEER FIRE DEPARTMENT, INC. TO PROVIDE FIRE PREVENTION SERVICES TO THE CITY OF CHARDON FOR THE YEARS 2010 - 2012 AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. Campbell moved and Mr. King seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2565 was then read for the second and third time by title only.

Mrs. Bramstedt moved and Mrs. Reiter seconded for the adoption of Ordinance No. 2565.

Mr. King inquired about the cost for the services.

Mr. Smock stated that he and the Fire Chief have to finalize the costs for the services but it will be 120 hours per month at an hourly rate which has yet to be determined. Mr. Smock stated that he expected that it would go up approximately 2% per year. He noted that the levy would also be paying for the cost of this service.

Upon roll call vote the motion passed unanimously.

**ORDINANCE NO. 2566**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT/AGREEMENT WITH GEAUGA COUNTY MAPLE FESTIVAL, INC. FOR THE 2010 MAPLE FESTIVAL AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. King moved and Mr. Campbell seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2566 was then read for the second and third time by title only.

Mr. King moved and Mr. Campbell seconded for the adoption of Ordinance No. 2566.

Upon roll call vote the motion passed unanimously.

**ORDINANCE NO. 2567**

AN ORDINANCE AMENDING §505.14(d) WHICH PROHIBITS DOGS ON DESIGNATED PUBLIC PLACES DURING THE MAPLE FESTIVAL was read for the first time by title only.

Mr. King moved and Mr. Cromwell seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2567 was then read for the second and third time by title only.

Mr. King moved and Mr. Campbell seconded for the adoption of Ordinance No. 2567.

Mr. Gillette stated that the ordinance was amended to coincide with the new festival dates.

Upon roll call vote the motion passed unanimously.

**ORDINANCE NO. 2568**

AN ORDINANCE TO MAKE TEMPORARY APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF CHARDON, STATE OF OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2010, AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. King moved and Mrs. Bednar seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2568 was then read for the second and third time by title only.

Mr. King moved and Mr. Campbell seconded for the adoption of Ordinance No. 2568.

Mrs. Bramstedt inquired about the amount the appropriations.

Mr. Smock stated that the appropriations are slightly lower than the previous year.

Upon roll call vote the motion passed unanimously.

**RESOLUTION NO. 28-09**

Mr. King moved and Mr. Campbell seconded to amend the resolution to include an emergency clause. Upon roll call vote the motion passed unanimously.

A RESOLUTION AUTHORIZING THE APPROPRIATION OF \$213,807 AS THE CITY OF CHARDON'S SHARE FOR COMPLETION OF THE FIFTH AVENUE IMPROVEMENT PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE STATE OF OHIO DIRECTOR OF TRANSPORTATION FOR THE PROJECT AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. King moved and Mr. Campbell seconded the rules be suspended and the Resolution be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Resolution No. 28-09 was then read for the second and third time by title only.

Mr. King moved and Mr. Campbell seconded for the adoption of Ordinance No. 28-09.

Mrs. Bramstedt expressed concerns about the affect the project will have on Heinen's as she had difficulty accessing Heinen's during the Fifth Avenue Improvement Project which hurt their business.

Mr. Courtney stated that there was always access to Heinen's parking lot during that construction project and discussions have taken place with Heinen's regarding access to their business during this project.

Mr. King stated that Heinen's has not stated publically that they lost money from the project and feels that the improvement of Fifth Avenue has helped their business in the long-term.

Results of the roll call vote:

Bednar:	Yes	King:	Yes
Bramstedt:	No	Reiter:	Yes
Campbell:	yes	Simpson:	Yes
Cromwell:	Yes		

Motion passed.

**ORDINANCE NO. 2569**

AN ORDINANCE INCREASING APPROPRIATIONS IN THE CITY OF CHARDON TREASURY FOR 2009 AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. King moved and Mrs. Bednar seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2569 was then read for the second and third time by title only.

Mr. Campbell moved and Mrs. Reiter seconded for the adoption of Ordinance No. 2569.

Mr. King asked what the expenditures total for the project.

Mr. Smock stated that he does not have the figure that Mr. King has requested but the Ordinance does not pertain to general fund money. It is money that they have raised themselves.

Mrs. Reiter asked how much is left in the account.

Mr. Smock stated that that is approximately \$4,000 remaining in the fund.

Mrs. Bramstedt asked what the money is to be used for.

Mr. Smock stated that it is for an engineering or architectural expenditure.

Upon roll call vote the motion passed unanimously.

**ORDINANCE NO. 2570**

AN ORDINANCE AMENDING APPROPRIATIONS IN THE CITY OF CHARDON TREASURY FOR 2009 AND DECLARING AN EMERGENCY was read for the first time by title only.

Mr. King moved and Mrs. Reiter seconded the rules be suspended and the Ordinance be read for the second and third time by title only. Upon roll call vote the motion passed unanimously.

Ordinance No. 2570 was then read for the second and third time by title only.

Mrs. Reiter moved and Mr. King seconded for the adoption of Ordinance No. 2570.

Upon roll call vote the motion passed unanimously.

**REVIEW OF EXPENDITURES**

Mr. Cromwell reported that all expenditures were in order.

**EXECUTIVE SESSION - none.**

**ANY OTHER BUSINESS TO COME BEFORE COUNCIL**

Mayor Simpson spoke to reflect about her time on Council.

Mr. Campbell moved and Mr. Cromwell seconded to adjourn. Upon voice vote the motion passed unanimously.

The meeting adjourned at 8:22 P.M.

Attest:

KAREN S. SIMPSON, Mayor  
President of Council

AMY DAY  
Clerk of Council