

Minutes of the Regular Meeting of Stow City Council held on Thursday, January 14, 2016, at 7:00 p.m.

Council Members Present: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

Council Members Absent: Lowdermilk

City Officials Present: Mayor Drew, Finance Director Baranek, Director of Budget & Management Earle, Service Director Wren, Law Director Zibritosky, Manager of Information Systems Germano, Police Chief Film, Fire Chief Stone, Parks & Recreation Director Nahrstedt & Clerk of Council Emahiser

Press Representatives: Stow Sentry

Call to Order

Mr. Rasor called the meeting to order and Mr. Adaska led the prayer and pledge of allegiance.

Approval of Minutes

MOTION:

Mr. D'Antonio moved and Mr. Riehl seconded to approve the Minutes of the Regular Council Meetings of December 10, 2015 and January 4, 2016 as circulated.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Committee Reports

Mr. Riehl reported on the Finance Committee Meeting of January 14, 2016 as follows:

1. Ten items would be introduced in legislative form.
2. Approved one expenditure.

Mr. Adaska reported on the Public Improvements Committee Meeting of January 14, 2016 as follows:

1. Three items would be introduced in legislative form.
2. One item would be introduced in motion form.

Mr. Rasor reported on the Committee-of-the-Whole Meeting of January 14, 2016 as follows:

1. One item would be introduced in legislative form.

Comments from Other Persons Present

Elfrieda Lytle
3964 Kent Road, A-409

Mrs. Lytle stated she had a question concerning the flags at the cemetery. They were taken off before November 11th, which was Veteran's Day. She asked why they weren't left on until at least then?

Mayor Drew stated she was not aware of that. However, she thought Mrs. Lytle had an excellent point. They would make sure that next year that does not happen. She thanked Mrs. Lytle for bringing that to their attention.

City Officials' Reports

Mayor Drew reported as follows:

1. Reminded the public that Monday was a federal holiday. It was Martin Luther King Day. City Hall and all of our offices will be closed. They would resume normal business hours on Tuesday.
2. Thanked the service department and all of our staff members from a variety of departments who have pitched in for salting and snowplowing. They had certainly bit the bullet for a long time this winter. They were happy to continue doing so, but it appears that winter has arrived along with snow and ice.

She asked people to be mindful of the trucks and plows when they were out. She asked people to please give them clear and assured distance. As always, they would do their best to maintain adequate snow and ice control during snow events.

Law Director Zibritosky reported as follows:

1. As she had discussed with Council in executive session, there was an item before Council tonight that was moved out of Committee-of-the-Whole. It was to authorize her to enter into a consent judgment entry with Albrecht, Inc. and CGP Acquisition and Development, LLC, also known as Dollar General.

As many people in the audience may be aware, the City is currently in a lawsuit with Albrecht and CGP concerning the site plan approval of Dollar General at Fishcreek and Stow Roads.

With this consent judgment entry as negotiated, we would be allowing the development as the site plan was approved by the Planning Commission. It would end the litigation. However, in return, CGP would agree to split the northeast remainder of the lot, which she believed abuts Anna Circle, they would agree to apply for rezoning to make it R-3 and they would make it a restriction in their deed for that property that it would only be developed for residential purposes.

She thought this was a fantastic compromise between the two parties. It allowed them to ensure that that commercial development does not encroach further, especially towards the residences in the back. She would very much appreciate Council's favorable consideration towards authorizing her to enter into this agreement. She was available to answer questions.

New Business

MOTION:

Mr. Adaska moved and Mr. Costello seconded to confirm the Mayor's appointments to the following boards and commissions:

Parks & Recreation Board
Julie McClain
Term to End 1/2/21

Planning Commission
William R. Ross
Term to End 1/2/20

Public Safety Services Commission
Bruce Campbell
Term to End 1/2/19

Commission on Disabilities
Clair Wilson,
Louise Burkett,
Dawn Doolittle,
Bruce Bach &
Lisa Kamlowksy
Terms to End 1/2/20.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

MOTION:

Mr. D'Antonio moved and Mr. Adaska seconded to excuse the absence of Mr. Lowdermilk.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Disposition of Ordinances & Resolutions

Mr. Riehl introduced Ordinance No. 2015-173, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE PURCHASE OF ONE (1) 2015 FORD UTILITY POLICE INTERCEPTOR FROM STATE OF OHIO VENDOR STATEWIDE FORD LINCOLN MERCURY INC., AND DECLARING AN EMERGENCY.

which was read by title by the Clerk for the second time.

Mr. Riehl moved and Mr. D'Antonio seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Riehl, Adaska & Costello

No Votes: Rasor. The motion carried.

Mr. Riehl moved and Mr. Pribonic seconded for the adoption of Ordinance No. 2015-173.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2015-173 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Riehl introduced Ordinance No. 2016-1, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE MAINTENANCE OF THE CITY OF STOW'S TELEPHONE SYSTEM AT CITY HALL-

SAFETY CENTER, FIRE STATION #2, FIRE STATION #3 AND FOX DEN GOLF COURSE FROM SOLE SOURCE PROVIDER AVAYA INC., FOR THE CALENDAR YEAR 2016, WITHOUT THE NECESSITY OF PUBLIC BIDS, AND DECLARING AN EMERGENCY.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. D'Antonio seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Riehl moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2016-1.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-1 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Riehl introduced Ordinance No. 2016-2, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE PURCHASE OF MEDICAL SUPPLIES FOR MED UNITS FROM PREFERRED SOURCE VENDOR EMERGENCY MEDICAL PRODUCTS.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. Pribonic seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Riehl moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2016-2.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-2 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Riehl introduced Ordinance No. 2016-3, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE PURCHASE OF RESALE CONCESSION AND MISCELLANEOUS SUPPLIES FOR FOX DEN GOLF COURSE, FROM US FOODS, INC., WITHOUT THE NECESSITY OF FORMAL PUBLIC BIDS.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. Pribonic seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Riehl moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2016-3.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-3 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Riehl introduced Ordinance No. 2016-4, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE HOUSING OF PRISONERS, VIDEO ARRAIGNMENT AND RELATED EXPENSES FOR 2016 TO THE CITY OF MACEDONIA, WITHOUT THE NECSSITY OF PUBLIC BIDS.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. D'Antonio seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl & Adaska

No Votes: None

Abstentions: Costello. The motion carried.

Mr. Riehl moved and Mr. Pribonic seconded for the adoption of Ordinance No. 2016-4.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl & Adaska

No Votes: None

Abstentions: Costello. The motion carried.

Ordinance No. 2016-4 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Riehl introduced Ordinance No. 2016-5, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO MAKE AND ENTER INTO A CONTRACT WITH TAYLORMADE ADIDAS GOLF COMPANY, A SOLE SOURCE PROVIDER, FOR RESALE MERCHANDISE FOR THE PRO SHOP AT FOX DEN FOR THE CALENDAR YEAR 2016, WITHOUT THE NECESSITY OF PUBLIC BIDS.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. Pribonic seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Riehl moved and Mr. Adaska seconded for the adoption of Ordinance No 2016-5.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-5 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Adaska introduced Ordinance No. 2016-6, entitled:

AN ORDINANCE AMENDING CHAPTER 175, C.O.S., ENTITLED "SENIOR CITIZENS COMMISSION", PARTICULARLY SECTION 175.01 THEREOF, ENTITLED "ESTABLISHMENT, COMPOSITION AND TERM", AND SECTION 175.03 THEREOF, ENTITLED "MEETINGS AND QUORUM", AND DECLARING AN EMERGENCY.

which was read by title by the Clerk for the first time.

Mr. Adaska moved and Mr. D'Antonio seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Adaska moved and Mr. Pribonic seconded for the adoption of Ordinance No. 2016-6.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-6 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Adaska introduced Ordinance 2016-7, entitled:

AN ORDINANCE AMENDING ORDINANCE NO. 2012-36, WHICH CREATED THE STOW COMMISSION ON DISABILITIES TO INCREASE THE NUMBER OF MEMBERS ON THE COMMISSION, CLARIFY THE QUALIFICATIONS OF COMMITTEE MEMBERS AND EXPAND THE REQUIREMENT TO CONSTITUTE A QUORUM AND DECLARING AN EMERGENCY.

which was read by title by the Clerk for the first time.

Mr. Adaska moved and Mr. D'Antonio seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Adaska moved and Mr. Costello seconded for the adoption of Ordinance No. 2016-7.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-7 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Riehl introduced Ordinance No. 2016-8, entitled:

AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE AND SOLICIT BIDS, ON BEHALF OF THE CITY OF STOW, FOR THE PURCHASE OF MATERIALS FOR A ONE YEAR PERIOD BEGINNING IN MAY 2016; AUTHORIZING AND ADOPTING PLANS AND SPECIFICATIONS PREPARED BY THE CITY OF STOW THEREFOR; AUTHORIZING THE MAYOR TO MAKE AND ENTER INTO CONTRACTS FOR SAID MATERIALS SO LONG AS PRO-

PER AUTHORIZATION IS FIRST OBTAINED IN ACCORDANCE WITH
SECTION 173.05, C.O.S.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. Pribonic seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Riehl moved and Mr. Pribonic seconded for the adoption of Ordinance No. 2016-8.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-8 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Adaska introduced Ordinance No. 2016-9, entitled:

AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO
THE STOW CODIFIED ORDINANCES AND DECLARING AN EMERGENCY.

which was read by title by the Clerk for the first time.

Mr. Adaska moved and Mr. Pribonic seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Adaska moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2016-9.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-9 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Riehl introduced Ordinance No. 2016-10, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE PURCHASE
OF EQUIPMENT, PARTS AND SUPPLIES NEEDED TO MAINTAIN FOX DEN
GOLF COURSE FROM STATE BID LIST VENDOR CENTURY EQUIPMENT,
INC.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. Pribonic seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Riehl moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2016-10.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-10 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Riehl introduced Ordinance No. 2016-11, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO MAKE AND ENTER INTO A CONTRACT WITH ACUSHNET COMPANY, A SOLE SOURCE PROVIDER, FOR RESALE MERCHANDISE FOR THE PRO SHOP AT FOX DEN FOR THE CALENDAR YEAR 2016, WITHOUT THE NECESSITY OF PUBLIC BIDS.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. Pribonic seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Riehl moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2016-11.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-11 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Riehl introduced Ordinance No. 2016-12, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE PURCHASE OF EMULSION FOR THE STREET DEPARTMENT'S DURAPATCHER USED TO PATCH VARIOUS ROADS THROUGHOUT THE CITY FROM SOLE SOURCE PROVIDER RUSSELL STANDARD CORP., FOR THE CALENDAR YEAR 2016, WITHOUT THE NECESSITY OF PUBLIC BIDS, AND DECLARING AN EMERGENCY.

which was read by title by the Clerk for the first time.

Mr. Riehl moved and Mr. Pribonic seconded for the suspension of rules.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Mr. Riehl moved and Mr. Pribonic seconded for the adoption of Ordinance No. 2016-12.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

Ordinance No. 2016-12 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Razor introduced Ordinance No. 2016-13, entitled:

AN ORDINANCE AUTHORIZING AND DIRECTING THE LAW DIRECTOR TO ENTER INTO A CONSENT JUDGEMENT ENTRY WITH CGP ACQUISITION AND DEVELOPMENT, LLC AND ALBRECHT INC. RESOLVING ALL PENDING LEGAL CLAIMS AGAINST THE CITY IN ACCORDANCE WITH THE SETTLEMENT TERMS SET FORTH THEREIN, AND DECLARING AN EMERGENCY.

which was read by title by the Clerk for the first time.

Mr. Razor called on Mrs. Zibritosky to potentially propose an amendment to the legislation.

He stated he was interested in amending the legislation to reflect the obligations of the property owner and/or new property owner in connection with the Dollar General approval which was in litigation right now as Mrs. Zibritosky had described earlier.

Mrs. Zibritosky stated at the end of Section 1, Council could put in the following language:

“Said entry shall include a term requiring CGP to split the northeast remainder of the lot from the property included in the Dollar General site plan upon closing upon the property transfer and once recorded, CGP shall apply for said remainder lot to be rezoned as R-3.”

Mr. Razor asked if they had captured the deed restriction? Mrs. Zibritosky stated they did not. She added the following wording after the proposed wording.

“and CGP shall also include a deed restriction in any future conveyance of that remainder lot indicating that the lot is to be developed for residential purposes only.”

MOTION:

Mr. Razor moved to incorporate the amendment as described by Mrs. Zibritosky above and to add a clause at the very end of that section stating:

“and naming the City of Stow as a third-party beneficiary to such deed restriction.”

Mrs. Zibritosky stated that she wasn't sure what Mr. Razor wanted in the last part. She wanted to be clear because that wasn't what was in the agreement.

Mr. Razor stated that we can't force a deed restriction that we are not a party to unless we are a third-party beneficiary.

Mrs. Zibritosky thought that actually gets a little bit more complicated. We would need to change our code to say that that is a power that we can do.

If that was what they wanted to add, she would request that the legislation be held because, and they were kind of catching her off-guard on this point, there was an issue regarding that subject of law and how you enforce deed restrictions for zoning issues. She just wanted to make sure that we got it right. It may be that simple, but she wasn't sure.

Mr. Razor stated he would be amenable to holding this legislation if it was the Law Department's wish. Mrs. Zibritosky stated that was not her wish. Personally she didn't think that was even necessary because it was part of the agreement - what they just added. However, if that was what Council saw as absolutely being necessary in order to vote tonight, then yes.

Mr. Razor stated that he wanted to vote on his amendment and then go from there.

Mr. Adaska seconded the motion for discussion.

Mr. Adaska wanted to add a date in there, because if they didn't have a date in there, they could come back and rezone it in 2065. He thought they should have a maximum amount of time for the rezoning. He hated to complicate the matter, but he thought that date was necessary.

Mrs. Zibritosky stated at this point she would recommend that we not do that because she hadn't been able to negotiate that point with the other parties and she didn't know what their business necessities were, etc. So, not to say that that wasn't something that they couldn't look into, but she did not think it was appropriate to put it into the legislation.

Mr. Razor stated in terms of the deed restriction, the deed restriction would be included in the deed that was delivered at closing, so that was going to happen before any development could take place. He asked if Mrs. Zibritosky was referring to the rezoning? Mrs. Zibritosky stated yes. Mr. Adaska stated he was too. He just wanted to make sure that it happens.

Mr. Razor stated if they didn't apply for it in a timely fashion, they could still put it thru the channels that they wanted to put it thru. So, to him, that wasn't a critical issue because they could still control their own destiny on that. Mr. Adaska stated he would go on Mr. Razor's recommendation.

Yes Votes: Razor, Riehl & Adaska

No Votes: D'Antonio & Costello

Abstentions: Pribonic. The motion to amend failed.

MOTION:

Mr. D'Antonio moved and Mr. Riehl seconded for the suspension of rules.

Yes Votes: D'Antonio, Riehl & Costello

No. Votes: Razor & Adaska

Abstentions: Pribonic. The motion failed.

Ordinance No. 2016-13 was declared to be read for the first time.

Pending Committee Meetings

Planning Committee
Thursday, January 28, 2016
at 6:00 p.m.

Finance Committee
Thursday, January 28, 2016
to Follow the Planning Committee

City Council
Thursday, January 28, 2016
at 7:00 p.m.

Adjournment

MOTION:

Mr. Pribonic moved and Mr. D'Antonio seconded to adjourn.

Yes Votes: D'Antonio, Pribonic, Rasor, Riehl, Adaska & Costello

No Votes: None. The motion carried.

The meeting adjourned at 7:30 p.m.

Bonnie J. Emahiser
Clerk of Council

Mike Rasor
President of Council