

Minutes of the Regular Meeting of Stow City Council held on Thursday, March 8, 2018, at 8:08 p.m.

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

City Officials Present: Mayor Kline, Finance Director Baranek, Director of Budget & Management Earle, Service Director Wren, City Engineer McCleary, Manager of Information Systems Germano, Director of Planning & Development Kurtz, Economic Development Coordinator Trenner, Deputy City Engineer Jones, Police Chief Film, Fire Chief Stone, Parks & Recreation Director Nahrstedt, Law Director Zibritosky, Captain Amonett & Clerk of Council Emahiser

Press Representatives: Beacon Journal & Stow Sentry

Call to Order

Mr. Riehl called the meeting to order and Mrs. Zibritosky led the prayer and pledge of allegiance.

Approval of Minutes

MOTION:

Mr. Adaska moved and Mr. D'Antonio seconded to approve the Minutes of the Regular Council Meeting of February 22, 2018 as circulated.

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

No Votes: None

Abstention: Costello. The motion carried.

Committee Reports

Mr. Costello reported on the Finance Committee Meeting of March 8, 2018 as follows:

1. Eight items would be introduced in legislative form.

Mr. Riehl reported on the Committee-of-the-Whole Meeting of March 8, 2018 as follows:

1. Recessed into executive session to discuss an appointment of a public employee.
2. Had the unveiling of the Downtown Stow concept in open session. Had a nice presentation from OHM and a lot of public comments.

Comments from Other Persons Present

Jessica Woods
3576 Dayton Ave.

Mrs. Woods stated that Mr. Riehl actually represented her ward. She had emailed him about the carwash in the past.

On February 8th he told her he was working on it. Mr. Riehl stated that was correct. Mrs. Woods wondered what kind of progress he had made and what he had found out to date?

Mr. Riehl stated they had made contact with the Planning Department. Essentially the law says that they can't compel him to testify. They didn't have subpoena powers. They couldn't tell him to come in here under the order of whatever. They were trying to make progress on it. However, they had to understand that it was very limited in scope.

Mrs. Woods thought Mr. Riehl had to understand that she was looking at the City's Planning and Zoning Code. Section 1161.02(d) of that says that the conditional use (which the carwash required and Council gave) will not be hazardous or disturbing to the use and enjoyment of property in the immediate vicinity (her house).

All she heard was the whine of that carwash. When she was outside playing with her children, it was constant. You could hear it well above the traffic. She invited anyone of them (she had invited all of them) to her house to hear it for themselves. She wasn't exaggerating by any means. It was just a constant whine.

She could hear it from her living room when she opened her door to let her dog out. She hated to think come spring when she opened her windows and was outside with the children what it would be like. It was a constant noise from the vacuums, driers and blowers. It was a nuisance.

Section (d) says no disturbing the use. It disturbs the use of her backyard. She was sure that it impaired the property value. She asked who would want to live next to that? It sounded like she lived next to a freeway.

Section (h) says there should be no public cost to the public. Cops have been sitting there on their street watching the left-hand turns. She thought that was public cost.

She knew Mr. Walter (the representative for this carwash) in the Planning Committee Meeting of August 10th said that basically out-at-the-road you wouldn't be able to hear it. Anyone of them could sit at the end of their street, at the circle, and hear it as clear as day over any traffic at rush hour. It is constant.

She knew he had told all of them that it was a muffled piece of equipment. He provided a drawing at one of the meetings. He provided a drawing for a piece of equipment that had a muffler on it in the off position. He said that was 70 decibels. You wouldn't be able to hear it at the road. There were 15 vacuums, a blower and additional equipment not accounted for commented on but there was no noise study done.

She asked what Council could do to help her? From her property, all they heard was this carwash.

Mr. Riehl asked Ms. Zibritosky what they could do to compel...? Mrs. Woods stated that he said on record at the August 10th meeting that he would be happy to revisit the matter with Council if the carwash operates and it's too noisy. She knew Mr. Pribonic had been nice enough to try and set-up a meeting. However, he was already lawyered up.

Mrs. Zibritosky stated this was the first time she had heard of this so she would have to look into what the City's legal obligations and their authorities were. As they all knew, government and business could not be intertwined too heavily, so she thought there were going to be some limitations on their authority over private businesses and how they conduct themselves.

Mrs. Woods stated on how they interfere with her private use of her own residential property that was there before the carwash. Mrs. Zibritosky stated she wasn't discounting her experience at all.

Mrs. Woods stated that nobody would want that by them. They had all said it in different ways. Mrs. Zibritosky stated that she understood that. Mrs. Woods stated there was no denying that you could hear it well past the road. They had bought into his line on August 10th. They were wrong.

Mrs. Zibritosky stated that what they had to look at was whether or not the City could do something? That didn't mean that Mrs. Woods absolutely had no recourse. It just might mean that she might have to look at it as a civil recourse method, which would mean that she would have to get her own attorney and look into it.

Mrs. Woods stated she would rather not front the cost of that. Mrs. Zibritosky stated that she understood that. However, that was always the interplay that they had with the City. They didn't get involved in civil disputes, so they would have to see whether or not this was a civil dispute or...Mrs. Woods asked if Mrs. Zibritosky would consider unlawful noise disturbing? Mrs. Zibritosky stated they would have to look into all of that.

Mrs. Woods asked if she could expect an answer? Mrs. Zibritosky stated she would give Mrs. Woods her email address. Mrs. Woods stated that she had it. She had emailed many of them. She had received periodic responses here-and-there. A couple of times after she had followed-up with them numerous times they had sent her a one-liner. That wasn't an answer. That was all she got. The carwash is there.

Mr. Lowdermilk asked if there was still an act of arbitration program?

Mr. Pribonic asked if they could look at it as to what the applicant stated at the meeting? It was in the minutes. He asked Mrs. Zibritosky to look into that. Mrs. Zibritosky stated she would look at the minutes, what the City's legal authority was and what was actually a condition of issuing the zoning permit versus what was a statement of intention.

Mrs. Woods stated, speaking of permits, she saw on the foundation permit it says please forward to the Building Department a geotech inspection report. That was never done. There is no geotech inspection report. There was a carwash built. Obviously it had moved on beyond the foundation permit. Your own Law Department said, and she had the letter, that a geotechnical inspection report does not exist. She asked how that foundation permit could go forward without the report?

Mrs. Zibritosky stated she was not involved with the building permit. That was a public records request. They just processed those requests. Mrs. Woods stated that the Assistant Law Director said there is no geotechnical inspection report. Mrs. Zibritosky stated that means that they didn't have it on file. Mrs. Woods stated exactly. But it says that there should be one on file.

Mrs. Zibritosky stated that she didn't know why. It wasn't her department of what a geotechnical report...Mrs. Woods stated that Mrs. Zibritosky didn't know a lot. What she wanted to know was how they were going to fix this carwash noise that they had all already approved and was bothering her - a city resident paying taxes?

Mrs. Zibritosky thought it would be helpful if they got together and had a meeting with perhaps the Mayor and some of the department heads because she didn't think they were all on the same page with this issue as of tonight. She thought that would be the best way to move forward with this.

Mrs. Woods stated okay. She would again like to point out the August 10th meeting. In that they would find a lot of great quotes from Trent Walter where he promised regarding the noise level and everything that he would be more than happy to come back and revisit. Obviously he is not more than happy to come back.

She asked any of them to come to their street. They could stay at the far end, by the path, and hear it. They could hear it past Kent Road, down Dayton Avenue and all the way to the tip of the bike trail.

She hadn't bought her house to hear a carwash. If she wanted to live next to a freeway, she could have saved thousands of dollars. At least when you live on a freeway you get a sound wall.

She felt it was unfair that she was put into the position where she had to consider hiring a lawyer when she had three young children that have to sit outside and listen to a carwash. It was constant. She wasn't exaggerating by any means. She asked people to please come to her street and hear the all-day, non-stop noise.

Mr. Pribonic asked if Mrs. Zibritosky was willing to meet with Mrs. Woods? Mrs. Zibritosky stated that she was. She didn't have the answers to all of her questions so she thought a collaborative meeting would be the next step so they could try to figure out who has the answers to all those questions.

Mrs. Woods asked if she should email her to schedule that? Mrs. Zibritosky stated yes. Mrs. Woods thanked Mr. Pribonic.

Jeremy McIntire
3630 Darrow Road

Mr. McIntire stated that the one thing he didn't see regarding the licensing for the Entertainment District was that the entire City was going to vote. He thought this was the only section that was still dry within this district.

He asked if that vote was only for sales between Monday or Saturday or did that include Sunday sales or would that have to be a separate ballot issue? He asked if they would be voting for liquor sales seven days a week?

He thought most liquor sales were Monday thru Saturday and Sunday sales were a secondary vote. He asked if anyone knew how that would work? Would they have to vote on it twice or was it all encompassing for Sunday thru Saturday seven days a week?

Mr. Adaska stated that it depends on what the applicant applies for. It goes to the state and the state sends something to them. Mr. McIntire stated so he thought there was a potential for the entire City to have to vote 15 separate times. He asked if they were going to make sure it was all encompassing?

Mayor Kline stated her understanding was that the Community Entertainment District required one vote, which was citywide, and if they submitted the application, would be scheduled at the general election this November. That did not then require subsequent votes in each precinct, which was what she thought the model was that Mr. McIntire was thinking of when there were different precincts that had to vote on specific things.

With that said, having the Entertainment District and the possibility of those D-5J licenses does not give the applicant free reign to do whatever he or she wishes to do in his or her establishment. He or she would still have to apply thru the Division of Liquor Control and still have to meet the regulations and requirements of his or her specific application.

Then, as Mr. Adaska had referenced, when they get an application for any business in the City of Stow for a liquor license, it comes to City Council. City Council has the opportunity then to review that with the community in the form of a public meeting. It is usually thru the Public Improvements Committee. It is publicized, as are other matters like planning matters and things like that, to people within a certain radius. That offers the opportunity to City Council to hear feedback from neighbors regarding the specific application that may be filed.

Mr. McIntire stated so the initial vote is just to make the precinct wet. Mayor Kline stated it is hand-in-hand. Should the Community Entertainment District be adopted

by the voters in the City of Stow, that then is the catalyst for this precinct, which Mr. McIntire is correct, is currently dry to become wet. One follows the other.

Mr. McIntire asked moving forward though for a specific business it wouldn't have to come back for a vote again to allow or would they just pass that by resolution to allow it? Mayor Kline stated it would be the same as in every other wet precinct in the City of Stow now whereas if a business applies for a liquor license, they apply thru the Division of Liquor Control at the state, the City is notified and we have the opportunity and do hold a public meeting via the Public Improvements Committee. So it would be handled in the same manner that it is handled in other precincts in the City that are currently wet.

For example, if Beef O'Brady's left and someone else applied for a liquor license there, the precinct would not vote on that, but the City would receive that information and have a Public Improvements Committee meeting for feedback from the community. It would be the same kind of thing.

Brandon Woods
3576 Dayton Avenue

Mr. Woods stated they were only here because City Council didn't do what they had asked them to do. A whole road sat here and asked them to do a sound study. They asked them to do a road study. They didn't.

Mysteriously they pushed it forward. They pushed everything aside and then when you go thru the paperwork, none of the permits are accurate. Every time they try to get paperwork that they say is there, it's not.

The fact that the foundation permit is not complete and you still allowed it...He asked if they knew what happened if a permit isn't right? He stated that they had to tear down the whole building.

That is legal precedent. It didn't matter how much is finished. So if this isn't done, it's a big mess-up. However, he thought that is just paperwork that is just missing.

Even with it being conditional it says that the landowner has to file all the paperwork and things. The landowner never did that. There is no conditional permit. It still isn't valid.

Getting past all of that, you put a sound tunnel pointed at a brick house that goes right down their road. He asked who could have seen that was a problem? The sound study could have. That was all they had asked for.

They were here today to ask them to keep taking steps to fix this because it needs fixed. Otherwise, they have to start tying-up resources by making police reports to the Police Department, which is a waste of money.

It's stupid. However, that's the steps they have to take in their forum until enough have been built-up that they were forced to do something about it. Again, that's stupid because they had to pay for that.

They didn't want to do that. They were literally here today to ask them to take this seriously. This is a serious issue.

There are six kids within 300' of that who have to listen to a noise all day long. Every sound study proves that the longer you hear a constant noise, no matter how loud it is, the more detrimental it is to your health.

It breaks City Ordinance No. 509.08, Unlawful Noise and Disturbances. They could read it. It's textbook definition of what is happening at their street right now.

They were here a few months ago. They have been in contact several times since then. Nothing has been done – absolutely nothing. It's not even nice yet, when they know that things going to be going constantly non-stop.

They were here begging them. They asked them to do something about this. It couldn't just go unabated. The noise has to at least be diminished or diverted. Put a tree up or something. Something needs to be done about this.

They were already wasting resources by putting cops out there. As they had all said, that left-turn lane wasn't going to work. They ran over the sign and everyone just turns left out of there. He had had to lock-up the brakes a few times.

Days when it's borderline freezing, they see the salt trucks salting that area because they put all of that water out onto the road. That's more of their dollars going to this area.

Those things were all brought-up as points. People could check the minutes. They had brought-up every one of those points and they were happening right now.

He asked the City to please work with them. Don't just do lip service, like they thought they had done so far. When they bought their home, it wasn't like this. There was nothing there that was even remotely close to this.

He hated to throw Mr. Adaska under the bus. However, he was complaining about hearing kids being outside. Most people find kid's laughter pleasant. He asked them to imagine a vacuum out there. No one finds a vacuum pleasant.

They would be in contact with them. Most of them had received messages from his wife. This was a problem that was happening to the whole neighborhood.

They were trying to get more people involved. Hopefully next time there would be more of them. He asked them to address this issue – talk to them back-and-forth at least. Don't just give them lip service and say it's over with.

He thanked everyone for their time.

Alex Bryan
4674 Trillium Drive

Mr. Bryan stated that he had a quick question in regards to the Community Entertainment District and the proposal that they had seen this evening.

He asked if for whatever reason the Community Entertainment District goes to the ballot and gets voted down, if that would end-up killing in essence this development around the City Center? Mayor Kline stated no. Mr. Bryan stated so there would be a contingency to move forward.

Another question he had was in regards to Ordinance No. 2018-10, modification of the air gun legislation. He asked exactly what the change was that was being proposed and the reasoning behind it?

Chief Film stated after they changed the rules, they had had some juvenile offenders that were stopped for criminal behavior. In the past they had been able to charge them with possession of an air gun or whatever they had. When they did the updates, that was taken out. They had just respectfully asked that that be put back in for situations where juveniles have air guns.

As he had instructed counsel, they weren't going to go out and raid homes or search people. However, when they encounter juveniles that are being arrested or stopped for mischievous behavior and they have an air gun on them, they want to be able to hold them accountable for that.

Mr. Bryan asked if it was the Ohio Revised Code that changed that? Chief Film stated no. It was the City's Code. Mr. Bryan thanked Chief Film for the information.

Mike Kosmach
3545 Williamson Road

Mr. Kosmach stated not to be redundant, but he was really against the CED being moved into residential areas.

After hearing what those people were going thru, he could see people from their neighborhood a few years from now if that goes thru, going thru the same thing. Based on the City's apparent limited ability to help them, it seemed like it is put back on the homeowner if the restaurant/bar that moves into that area is a nuisance.

Another thing is with all these presentations, everyone talks about greenspace. However, they were talking about taking away greenspace for the neighbors on Williamson Road. He remembered Mr. Marhofer's attorney talking about the greenspace that would be over at Marhofer's. It is AstroTurf. What people say and what they do seem to be two different things.

He asked people to think about their own backyards in the summer – the enjoyment that they have there and what's behind it. Then think about if there was a restaurant/bar, parking lots and lights there. He asked them if they would want that in their backyards? If the answer is no, he seriously would like them to consider not using residential areas for the CED.

City Officials' Reports

Mayor Kline reported as follows:

1. Mrs. Zibritosky had alluded to this in her prayer. Today is the United Nation's International Women's Day, which is something that is celebrated globally and for very important reasons.

The United Nations Secretary-General Antonio Guterres said this about the 2018 International Women's Day:

“Achieving gender equality and empowering women and girls is the unfinished business of our time, and the greatest human rights challenge in our world.”

She had some statistics that she wanted to share with them about women and the global economy.

Globally, for working age people in the work force, there are 76.1% of men in the work force but only 49.6% of women globally of working age are in the work force.

If women were allowed to have an identical role in labor markets across the world as men, it would boost the global GDP by 26% or the equivalent of \$28 trillion U.S. by 2025 simply by giving women equal access to the labor market globally.

Across the globe, CEOs of Fortune 500 Companies are only 4% women.

Globally, women earn \$.77 to every dollar that men earn.

Globally, 65% of people in retirement age who are without any regular pension or social protection, such as health insurance, are women.

If we think that here in the United States with our democracy and equal rights that we are so far ahead, she had some other sobering statistics.

In 2017, there were 105 women elected to the United States Congress, 21% of the Senate and 19.3% of our House of Representatives.

Across all 50 states, out of 312 possible statewide elected offices there were 74 women – that is 23.7%. Women make up 51% of the population of this country. Those statistics do not reflect their presence in society.

Unfortunately in Stow the numbers are even worse. Since the first municipal election was held after the Charter was adopted in 1959, 8 women out of 203 people were elected to this City Council. She had been one of them. That works out to .039% of this legislative body being served by women.

She was going to say that again for effect. Women are 51% of this community. However, for our legislative body, since the inception of the first municipal election in 1959, .039% of the legislators elected by this community have been women.

They do a little bit better when they get to Mayors. 3 of 8 Mayors have been women. So they achieved a whopping 37% representation when they looked at Mayors.

They can do and should do better.

Her challenge to all the men in this room, to all the men listening and to all men in the City of Stow is to support the women in their lives. To support your wives, daughters, sisters, mothers, friends, co-workers and employees so that the 51% of this community and the 51% of the globe can truly achieve gender and economic equality so that all of them could be better off.

Mr. Lowdermilk stated first of all he didn't want the people of Stow, despite the Mayor's comments, to think that City Council thinks that the people of Stow hate women. He thought the comments that she had made implied that.

Quite frankly, he had a wife and two daughters. He has been married for 35 years. He supported the women in his life. He supported his daughters in everything that they do.

When he goes to a voting booth, he didn't look to see what gender somebody is. He looked to see what their qualifications are and what they stand for. He had voted for women and men.

The citizens of Stow elect them, not City Council. To imply that the people in the City of Stow hate women he thought was beyond outrageous.

He thought, quite frankly, Mayor Kline should apologize to the people of Stow – the men and women who have voted for men.

Mayor Kline stated that was not at all what she had said. She thought he was ridiculous. She thought it was completely irresponsible for him to sit-up here and say that her comments suggest that the City of Stow hates women.

She had been pointing out statistics and facts. She was simply saying that women have been underrepresented. That was a fact. That was not saying that he or anyone else hates women.

She thought that was a ridiculous extrapolation of her comments and quite frankly only showed that he completely missed the point of what she was saying.

Mr. Lowdermilk stated he didn't miss the point. He knew exactly what the people from the United Nations and the other guys who were trying to make sure that

women's rights are protected are saying. That is not what Mayor Kline had said regarding the election of people in this City.

Disposition of Ordinances & Resolutions

Mr. Pribonic introduced Ordinance No. 2018-7, entitled:

AN ORDINANCE AMENDING CHAPTER 1147 C.O.S., ENTITLED "INDUSTRIAL DISTRICTS," PARTICULARLY SCHEDULE 1147.02 THEREOF, ENTITLED "PERMITTED USES IN INDUSTRIAL DISTRICTS", CHAPTER 1163 C.O.S., ENTITLED "SUPPLEMENTAL STANDARDS", PARTICULARLY SCHEDULE 1163.03 THEREOF, ENTITLED "AREA, WIDTH AND YARD REGULATIONS FOR CONDITIONAL USES", AND SECTION 1163.04 THEREOF, ENTITLED "SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES", SPECIFICALLY ITEM (EE) THEREOF, AND CHAPTER 1133 C.O.S., ENTITLED "DEFINITIONS", PARTICULARLY SECTION 1133.01 THEREOF, ENTITLED "DEFINITIONS", SPECIFICALLY ITEM 1133.01(B)(60) THEREOF, ENTITLED "HOSPITAL", TO ENCOURAGE POSITIVE ECONOMIC DEVELOPMENT IN INDUSTRIAL DISTRICTS.

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

Mr. Pribonic moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2018-7.

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

No Votes: None. The motion carried.

Ordinance No. 2018-7 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Resolution No. 2018-8 remained on the table.

Mr. Rasor introduced Ordinance No. 2018-10, entitled:

AN ORDINANCE AMENDING CHAPTER 549, C.O.S., ENTITLED "WEAPONS AND EXPLOSIVES", PARTICULARLY SECTION 549.10 THEREOF, ENTITLED "AIR GUNS; SLINGSHOTS; BOWS", TO "USE AND POSSESSION OF AIR GUNS; SLINGSHOTS; BOWS."

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

Mr. Rasor moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2018-10.

Mr. Lowdermilk stated one of their discussions on this was about ammunition. Unless that had been changed, he still saw that anyone under the age of 18 who had basically anything that could be fired thru an air gun was committing...Chief Film stated that at Mr. Lowdermilk's request ammunition was taken out of the ordinance.

Mr. Lowdermilk stated that it says no person shall sell or furnish any air gun, as defined in (a)(1), or other arm or implement, a slingshot or a bow, crossbow, blow gun, and lead, iron or other hard substance, or any ammunition for such weapons to any person under the age of eighteen years.

Mrs. Zibritosky believed that was in the ordinance so they would have to propose to take that out. The amendment that they had didn't do that. She thought that section was already in there. Chief Film stated they hadn't touched that section. Mrs. Zibri-

tosky stated that had always been that way so they would have to make an amendment to change it.

Mr. Lowdermilk stated his concern with this was that the ammunition becomes so broad when you put in air guns. He asked if that would include paint guns? Chief Film stated he would have to look at that. That was the original ordinance. They hadn't touched that.

Mrs. Zibritosky stated that they had to keep in mind as they had seen in that ordinance, to make it clear for the record, they weren't saying that nobody could use these things. Even children were allowed to use them under the care and supervision of a responsible adult in a safe manner. Their changes were about the possession and use by children not in that context.

Mr. Lowdermilk stated he appreciated that the other section was removed. He thought that probably was the right thing to do. He was okay with this. However, he thought maybe they needed to revisit it.

He asked them to look at it and make sure that he was reading it in the context that he thought he was. Under (f) he thought any person under the age of 18 years of age that is sold or somebody furnishes paintballs to would have a problem.

Mrs. Zibritosky thought a good question would be, since that was already in the ordinance for a long time and since that seemed to be the fear, if they knew of any time they made an arrest for that? Chief Film stated they had never arrested anybody for having paintballs.

Mr. Lowdermilk stated that he understood that. With the other part removed, he thought they could pass this tonight, maybe take a second look at it and if they need to revise it, they could. Mrs. Zibritosky thought if that starts to become a major issue, she trusted that Council Members would pick-up on it, due their due diligence and fix it for them.

Mr. Lowdermilk stated he would rather eliminate a problem before somebody paid a lot of legal fees or this becomes a problem. Mrs. Zibritosky agreed. She stated thank goodness it hasn't been a problem yet.

Mr. Razor stated the impetus of this change, he knew the law used to be this and now they were going back to it, was what they were trying to replace was the possession of an air gun. He asked if that was correct? Chief Film stated it was.

Mr. Razor stated the possession of a paintball gun had no real harm to it in and of itself, it's the use of it in a nefarious troublesome situation – somebody causing trouble with the paintball gun.

He thought that's perfectly acceptable, especially given the potential harm to somebody waiving an air gun or paintball gun around. They could get shot themselves. He actually had a proposed amendment that hopefully would satisfy the department's concerns but not be overbroad.

In Section 549.10(b), he suggested striking the words "unless under the direct supervision of a responsible adult" and replace it with the words "in a threatening, harassing or unlawful manner".

He thought they would all agree that a paintball gun in a 17 year old's trunk shouldn't be a crime.

Chief Film stated the problem was when they were putting marbles in them and going around the neighborhood shooting out windows of cars. Mr. Razor stated that had always been a crime. You can't do that.

If they were looking for like a secondary thing to charge them with...Mrs. Zibitosky stated in that manner it really didn't need to be this at all. That would be inducing panic. That would be aggravated menacing. There were many other laws that covered that.

The situation she thought they were looking at was not necessarily that they were being called out because of the possession of the weapon. It may be something else. However, because they were being called out and they find this juvenile in a Tamir Rice type situation where they have this weapon on them, it creates hysteria and the police respond for it, it creates an element in the police response.

It didn't mean that they were actually doing something with the weapon at that time. Perhaps they were doing something else. However, because they had the weapon on them or maybe they were suspected of doing something else, that becomes the problem.

It's as much of a deterrent as well so that parents know that this is not something that they should be permitting or allowing for their children because of these situations. She thought that was the intent behind it. If you don't agree with that, that's what the intent is behind it and why she would say that that amendment isn't really necessary in her opinion.

Mr. Razor stated that was understandable. He was just trying to drill down to the exact concern. Now what he was hearing was the exact concern is not so much somebody being an idiot with a paintball gun, but somebody just carrying it.

When you say Tamir Rice you are kind of implying that somebody is just having an open carry. He asked if open carry of a paintball gun or an air gun is the exact concern they were trying to alleviate or were they trying to alleviate the situation where you pull over some teens who have a paintball gun with marbles in it and you can't prove that they shot it, but you want to arrest them for something?

Chief Film stated or maybe just confiscate the weapon. Their hands were tied when they lost that. If a kid has a paintball or bb-gun and he is using it properly, they have no concerns. However, they do get concerns when somebody is out in their backyard shooting a bb-gun and their neighbor calls because there are 15 holes in his house and they just took out another window.

Mr. Razor stated he got that completely. He thought they were on the same page. They had spent the last year as a Council deleting what he called dumb laws, so he didn't want to create a dumb law that he agreed they would never enforce.

If somebody asked why can't his 17 year old drive to a paintball tournament in Stow without parental supervision, he could say I don't know, I passed the law but they will never enforce it. However, he would like to be able to answer truthfully that they tried to make a law that was narrowly tailored to meet this specific concern of the police department.

He actually saw this whole ordinance having a lot of redundancies and being just all kinds of a mess. That was probably the case since it was all put together at separate times and then repute together.

MOTION:

Mr. Razor moved and Mr. D'Antonio seconded to amend Ordinance No. 2018-10 as he had suggested above.

Mr. Lowdermilk agreed with the intent of this. They had certainly all seen the news. They didn't want kids lacking the best judgment walking around with a pellet gun whether they intended to harm anybody or not.

Law enforcement, if that's happening, to prevent something needs to at the very least have that ability to confiscate it at least to another time when their parents or somebody comes back and ends up taking possession of it. He assumed that was correct. Chief Film stated they would have to look at the circumstances.

As to Mr. Razor's point, he asked if they would be better off requiring anybody under the age of 18 that is in possession of a paint gun, which he thought would help somebody 16 or 17 transporting a paintball gun, to have some type of trigger lock on it? However, that wouldn't necessarily alleviate the concern of having somebody point it at an officer and he wouldn't know in a split second whether it had a trigger lock or not.

He understood Mr. Razor's point and he tended to agree with where he was going with it. However, he did see the point of the police. He guessed he could be swayed either way.

Mrs. Zibritosky didn't really care what Council wanted to do with it. It was a policy level decision. However, she did want to point out though that this was the third reading. They really worked hard with good faith with them. They hadn't received any calls or emails regarding this. They could have really crafted something that she thought would have addressed some of these concerns. It was a little frustrating for them.

Mr. Lowdermilk agreed. That was why he said that it may have been something that was overlooked in the past and he was willing to pass this now to help alleviate the concerns it was intended for and if they needed to revisit it, they could do that.

Mrs. Zibritosky stated that the Police Department came to them for this. The reason why was they were having issues and problems now that it has been left out. They were talking about the ifs, ands and buts. There was actual evidence of having problems with this when it was left out and there were no problems that they had all been envisioning when it was in a couple years ago.

So when they looked at what the actual evidence is, and she understood that they all had to think about the hypothetical, that's what they should do, but there is a difference between the hypothetical of no evidence that did exist and what actually exists now.

Mr. Lowdermilk stated he would be willing to support it tonight. He understood what it was there for. They could revisit it if they needed to.

Mr. Riehl asked Mr. Razor to sum up his amendment. Mr. Razor stated in Section 549.10(b) they would be removing the words "unless under the direct supervision of a responsible adult" and replacing them with the words "in a threatening, harassing or unlawful manner".

Mr. D'Antonio asked Chief Film if this amendment would hurt the Police Department in any way? Chief Film stated he would have to put that back on the Law Department. Mrs. Zibritosky stated she would think in a prosecutor's sense, it kind of makes the whole thing useless because it covers what is already in our current laws. If we could prevent those situations with what is in the current laws, they wouldn't be asking them to do this.

In the situation where he said they were shooting bbs at the house and they find the kid with the gun, still as a prosecutor if you just find the kid with the gun even though you might think it is this, that's not enough direct evidence that he was using it in a threatening and harassing manner because nobody saw him use it in that way. In those situations, that would be criminal damaging and she could think of a million other charges.

She understood the intent – well intentioned. However, she thought it was more of a poison pill in her opinion.

Mr. D'Antonio stated understood. He just didn't want to lose a good piece of legislation over an amendment.

Yes Votes: Rasor & Riehl

No Votes: Adaska, Costello, D'Antonio,
Lowdermilk & Pribonic. The motion to amend failed.

Mr. Costello called the question. The motion died due to the lack of a second.

Mr. Rasor stated that he just wanted to clarify. He wasn't going to vote for this because it captures acts that are not criminal and not even wrong. If there's legislation that comes back that is more narrowly tailored to catch people after doing bad things, he would be all for it. However, he didn't see where possessing a paintball gun in and of itself as being wrong.

Mr. Lowdermilk stated what he was balancing, and he understood what Mr. Rasor was saying, was he thought they had seen a couple of these instances and he didn't believe at this point they were going to be patrolling the streets looking for somebody carrying something, but if it comes up, they have to have something to at least deter people from walking around.

As they had seen, 12-year old kids don't always possess the best judgment. He balanced it with that. He thought they had to have something to try to prevent something from happening. However, he was all for revisiting this because he thought there were still some things that were unruly and he wouldn't want to make it so burdensome that it would be impossible to prevent a bad situation.

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

No Votes: Rasor & Riehl. The motion carried.

Ordinance No. 2018-10 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Costello introduced Ordinance No. 2018-29, entitled:

AN ANNUAL APPROPRIATION ORDINANCE PROVIDING FOR THE
EXPENSES OF THE CITY OF STOW FOR THE YEAR 2018, AND
DECLARING AN EMERGENCY.

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

Mr. Costello introduced Ordinance No. 2018-31, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE
PURCHASE AND INSTALLATION OF SIX (6) RADIO CONSOLES AT
3800 DARROW ROAD, STOW, OHIO, TO REPLACE OUR CURRENT
CONSOLE SYSTEM FOR THE POLICE AND FIRE DEPARTMENTS
FROM SOLE SOURCE PROVIDER MOTOROLA SOLUTIONS,
WITHOUT THE NECESSITY OF PUBLIC BIDS, AND DECLARING AN
EMERGENCY.

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

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

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

No Votes: None. The motion carried.

Mr. Costello moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2018-31.

Mr. Adaska moved and Mr. Lowdermilk seconded to amend Ordinance No. 2018-31 to Version No. 2.

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

No Votes: None. The motion to amend carried.

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

No Votes: None. The motion to adopt carried.

Ordinance No. 2018-31 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Costello introduced Ordinance No. 2018-33, entitled:

AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE AND SOLICIT BIDS, ON BEHALF OF THE CITY OF STOW, FOR MISCELLANEOUS STORM SEWER PROJECTS IN 2018; AUTHORIZING AND ADOPTING PLANS AND SPECIFICATIONS PREPARED BY THE CITY OF STOW THEREFOR; AUTHORIZING THE MAYOR TO MAKE AND ENTER INTO CONTRACTS FOR SAID SERVICES SO LONG AS PROPER AUTHORIZATION IS FIRST OBTAINED IN ACCORDANCE WITH SECTION 173.05, C.O.S.; AND DECLARING AN EMERGENCY.

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

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

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

No Votes: None. The motion carried.

Mr. Costello moved and Mr. Pribonic seconded for the adoption of Ordinance No. 2018-33.

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

No Votes: None. The motion carried.

Ordinance No. 2018-33 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Costello introduced Ordinance No. 2018-34, 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 2018, WITHOUT THE NECESSITY OF PUBLIC BIDS.

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

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

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

No Votes: None. The motion carried.

Mr. Costello moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2018-34.

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

No Votes: None. The motion carried.

Ordinance No. 2018-34 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect in thirty (30) days.

Mr. Costello introduced Ordinance No. 2018-35, entitled:

AN ORDINANCE AUTHORIZING AN EXPENDITURE FOR THE MAINTENANCE OF THE CITY OF STOW'S TELEPHONE SYSTEM AT CITY HALL/SAFETY CENTER FROM SOLE SOURCE PROVIDER AVAYA INC., FOR THE PERIOD SEPTEMBER 1, 2018 THRU AUGUST 31, 2019, WITHOUT THE NECESSITY OF PUBLIC BIDS, AND DECLARING AN EMERGENCY.

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

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

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

No Votes: None. The motion carried.

Mr. Costello moved and Mr. Pribonic seconded for the adoption of Ordinance No. 2018-35.

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

No Votes: None. The motion carried.

Ordinance No. 2018-35 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Mr. Costello introduced Ordinance No. 2018-36, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO MAKE AND ENTER INTO A 2018 CONTRACT WITH THE STATE OF OHIO, AUDITOR OF STATE, FOR PURPOSES OF PROVIDING AUDIT SERVICES FOR THE CALENDAR YEAR 2017, WITHOUT THE NECESSITY OF PUBLIC BIDS, AND DECLARING AN EMERGENCY.

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

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

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

No Votes: None. The motion carried.

Mr. Costello moved and Mr. D'Antonio seconded for the adoption of Ordinance No. 2018-36.

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

No Votes: None. The motion carried.

Ordinance No. 2018-36 was declared to be adopted by Council and, upon its signature by the Mayor, shall take effect immediately.

Disposition of Bills

MOTION:

Mr. Costello moved and Mr. D'Antonio seconded to approve the release of the checks for the current Bill Listing.

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

No Votes: None. The motion carried.

Committee Meetings Scheduled

Roads & Safety Committee
Thursday, March 22, 2018
at 5:00 p.m.

Planning Committee
Thursday, March 22, 2018
to Follow the Roads & Safety Committee

C.O.W.
Thursday, March 22, 2018
to follow the Planning Committee

Finance Committee
Thursday, March 22, 2018
to Follow the C.O.W.

City Council
Thursday, March 22, 2018
at 7:00 p.m.

Mr. Costello encouraged Council Members to get their questions concerning the budget answered so that they could pass the legislation on March 22nd so they didn't have to have another meeting on March 30th since the legislation has to be adopted prior to April 1st.

Adjournment

MOTION:

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

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

No Votes: None. The motion carried.

The meeting adjourned at 9:03 p.m.

Bonnie J. Emahiser
Clerk of Council

Matt Riehl
President of Council