

**COUNCIL AS A WHOLE COMMITTEE MEETING
MINUTES
TUESDAY
JUNE 14, 2011**

Council President Mr. Morley opened the meeting at 7:00 p.m. Members of Council in attendance were Mr. Knuchel, Ms. Vaughn, Ms. DePledge, Mr. Hoefle, Mr. D'Ambrosio and Council President Mr. Morley. Mr. Lajeunesse was late in attending. Also attending was Council Clerk Mrs. Cendroski.

Attending from the Administration were Finance Director Slocum, CBO Stigalt, Service Director Semik, City Engineer Gwydir, Police Chief Reik and Fire Chief Whittington. Mayor Andrzejewski and Law Director Klammer were absent and excused.

Also in attendance were members of the public.

LEGISLATION PROPOSED:

06-14-(01): BID ADVERTISEMENT: NOPEC GRANT POWER MANAGEMENT PROJECT

Mr. Morley: This is a bid advertisement for the NOPEC grant for the power management project. Mr. Slocum?

Mr. Slocum: As we discussed in Committee this is the bidding for the project for which we received the NOPEC grant. It is our recommendation that you approve this.

Mr. Morley: This is a project that will be fully funded – there will be no money from the City paid for this. It is for repairs at the four main buildings especially the Police and Fire Departments where they have some electrical issues and things of that nature.

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

06-14-(02): AMENDMENT: ORDINANCE SECTION 1301.01(d)(9) "SCHEDULE OF PERMIT AND OTHER FEES: CONSTRUCTION DEPOSITS"

Mr. Morley: Ms. Vaughn?

Ms. Vaughn: This piece of legislation was discussed in the Ordinance Committee and reduces the residential deposit fee for when resident's put on an addition or detached garage – we were asking for a \$500 deposit and have reduced it to a \$100 deposit. It appears on this evening's agenda with the full recommendation of the Committee.

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

06-14-(03): WPCC EXPENDITURE: REPLACEMENT: INFLUENT WASTEWATER SCREEN SYSTEM & DEMOLITION; INFLUENT SCREEN BUILDING: \$350,000

Mr. Morley: This was in Finance Committee – Mr. Knuchel, Mr. Slocum or Mr. Gwydir?

Mr. Gwydir: The WPCC is replacing the entire bar screen system and doing it with in-house help. The City of Willoughby is awarding the contract and I recommend this be approved.

Mr. Morley: Everything on Legislation Proposed and Legislation Pending has already been discussed in full Committee. The Council meetings are the highlights and when we pass the legislation. If you do not see a lot of questions it is because we have already talked about it in Committee. We are aware of everything that goes on and what these are for.

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

06-14-(04): CONTRACT: SERVICE YARD BIO-RETENTION BASINS: HECKMAN EXCAVATING CO.: \$45,160

Mr. Morley: We will be discussing this – the legislation is for Heckman Excavating in the amount of \$45,160. Mr. Gwydir?

Mr. Gwydir: This was a grant from the Ohio EPA to do a demonstration project in the City Service yard for bio-retention pollution control basins. I believe King Excavating was the low bid and Heckman Excavating was second. Council is considering this matter further tonight.

Mr. Morley: Mr. Stigalt, since our last meeting I sent a memo to you asking you to give us some information as to why King Excavating was not in regulation. But, you have talked to King Excavating since – can you provide an update?

Mr. Stigalt: Friday evening and Monday I was in conversation with the President of King Excavating and we have reached an agreement for the tanks he has on his property which I think is a win-win for both the City and King Excavating and meets the spirit rather than the full intent of the code. That is basically what we are looking for. He has provided me a letter with that statement and I feel that King Excavating should be considered as one of the bidders.

Mr. Knuchel: As we discussed this in Finance Committee quite extensively one of the things we did talk about was having them come into compliance and if they did come into compliance to consider King Excavating because they were the lowest bidder. The issue we all had I believe was the timing issue. You can write something on a piece of paper saying you are going to do this or that but it is my considered opinion that unless the work is done prior to us awarding the contract that it is not in the best interest of the City though I do thank you for your work on that. They thumbed their nose at us for well over a year now – not complying with what you requested of them – and, I do not believe they should be considered for this contract - regardless of what they say and what they did in the past – they are at odds with each other. I would recommend to Council that we go with Heckman Excavating for the cost of \$45,160.

Mr. D'Ambrosio: Mr. Stigalt, I know this was actually for a Conditional Use Permit and they did not want to comply so we basically dropped it. In between that time did we pursue them in any way and make them comply – until now?

Mr. Stigalt: Well, they did do one of the things the Fire Marshall did ask – which was to provide a letter that was recorded at the County – that if the property was ever sold that 15 feet would be deeded to the property that contains the tank to meet the requirements of the Fire Code. The bollards are up and there are safety issues that have been addressed. I felt that they have started

making an attempt to come into compliance. They are not in full compliance but I was trying to work in the spirit of having them come to comply for both the City and themselves.

Ms. Vaughn: Mr. Gwydir, what is the necessary timeframe for this work – can we put this on First Reading until we get more details on this issue?

Mr. Gwydir: I believe you could put it on First Reading.

Ms. Vaughn: That would be beneficial Mr. President.

Ms. DePledge: Mr. Stigalt, what is it exactly that they still have to do to be in compliance?

Mr. Stigalt: Basically, they have to get their Conditional Use Permit and follow all the guidelines that were first put in place. They have done some but have not fulfilled all the obligations – and, go through the Conditional Use Permit. The Conditional Use Permit will take anywhere from six to eight weeks if they reapply which is why I thought the spirit of them providing that letter and allowing the Fire Marshall to make continued inspections to bring their issues into compliance. I thought to try to balance out the need of having this project performed and their need to come into compliance. I was trying to reach a compromise but not compromise any safety issues.

Mr. Morley: The only reason I asked Mr. Stigalt to look at this was after we had our Committee meeting I went home and thought about it more – King Excavating is a business in the City of Eastlake and along with what Mr. D'Ambrosio said – if they were in compliance and there were no consequences and if Mr. Stigalt is okay with the agreement they came to then I think we should award the contract to King Excavating. They are a business in our City and they have been here a while. After talking to Mr. Stigalt and him talking to King Excavating I think we should award it to King Excavating.

Mr. Knuchel: And what happens if they do not come into compliance and we do give them the contract? We are asked to use our judgment. The judgment in my estimation is for over a year they have had these issues to take care of – now, the only reason they are taking care of them is because it is hitting them in the pocket book. Maybe they need to get hit in the pocket book before they will comply with the statutes.

Ms. Vaughn: I will restate that if we have the time we should discuss this in another Committee meeting instead of Council-as-a-Whole Committee.

Mr. D'Ambrosio: I am okay with King Excavating. Because of the time frame Mr. Stigalt mentioned – six to eight weeks – I don't know how much Council break will take this into effect. If they did submit a letter they are giving us their word. If they burn us on their word then so be it but I am okay with King Excavating. I was in contact with Mr. Morley to review this as I was out of town during the Committee meeting and I read all the minutes. I knew what was going on and I am on the Planning Committee so I know the Conditional Use Permit when this happened over a year ago. We did not actively pursue them to fix this and I think if we had pursued it they probably would have done it because another company with the same situation complied.

Mr. Knuchel: If they were aware of a situation that should have been corrected then we should not have to pursue them.

Mr. Morley: It is my opinion that we take a vote tonight.

Mr. Stigalt: The Fire Marshall, along with the Fire Chief, has full authority if there is an issue to shut them down.

Mr. Semik: I may be able to shed a little light on this. I sit on the Planning Commission. King Excavating is in a properly zoned area for them. They are not required to have a Conditional Use Permit. They are in a properly zoned area. Some of the requirements that were brought forward by the Building Department and not the Planning Commission should be handled either through property maintenance or the Fire Marshall. King Excavating has been there for about 20 years and have never been required to have a Conditional Use Permit. They are not putting anything in front of the building. If they were storing these containers in front of the building they would need a Conditional Use Permit. The gas tanks and trailers that are on the job sites are all located behind the building which is appropriate for their business. The issue of a Conditional Use Permit – King Excavating is really not required to have one unless they bring something outside that area to the front of the building or if they are moving to the marina district or residential district – they, yes, they would need one. I hope that clarifies it. In 20 some years they have never been required to have a Conditional Use Permit.

Mr. Morley: It is my recommendation that we support King Excavating and put this to rest tonight.

Mr. Knuchel: Mr. Stigalt, do you have anything to say in rebuttal to what Mr. Semik just said? I am getting two stories from two different people. I need some clarification.

Mr. Stigalt: King Excavating is properly zoned to be in that district – it is the storage and dispensing of the flammable gases that require the Conditional Use Permit – not their business. If they did not store flammable gases and there were no mobile trailers it would be a different story. But, the issue is the storage and dispensing. They are zoned to be there and have been so for a long time. It is the 1,000 gallon tank they have there that is in question.

Mr. Knuchel: And, that was the same issue with their next door neighbor?

Mr. Stigalt: Correct.

Mr. Knuchel: Who immediately corrected their problem – correct?

Mr. Stigalt: Yes.

Mr. Morley: Chief Whittington, as far as you know is King Excavating in compliance with the Fire Department?

Chief Whittington: When the Fire Marshall goes out he follows the Fire Code which has been accepted by the City. What we try to do in the Fire Department is this – when we find

compliance issues we obviously give them time to make corrections because as the CBO was saying we do have the authority to shut people down – but, how productive will that be for businesses in this community? I would say that the Fire Marshall – we give them a timeframe – I do not have that case in front of me so I am not sure where we are. We can give some things up to 30 days depending on the level of the safety issue. I trust in the fact that the Fire Marshall has handled things appropriately and whatever has happened to this point - if he has worked with Mr. Stigalt on this the Fire Marshall is the one to be handling it in the community. We don't want to burden businesses too much – especially now – so they start shutting down. That is not productive for our Community. If it is a safety issue that is on the fore front like locked doors in a business – that needs to be corrected immediately. We base our wants on compliance issues based on the severity if it does not get complied with. I reiterate the fact that the Fire Marshall has probably handled it appropriately.

Mr. Knuchel: Mr. Morley, I concur with you – let's get this done tonight.

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

LEGISLATION PENDING: (Placed on First Reading 05/24/2011)

05-24-(02): BALLOT ISSUE: 4.0-MILL TAX LEVY

Mr. Morley: We placed this on First Reading May 24, 2011. Mr. Slocum?

Mr. Slocum: This is the second reading for this issue. We discussed the need due to the funding that has been yanked by the State that we will need to operate in the future without significant cuts.

Mr. Morley: I am going to do something that we usually do not do. Are there any questions on the levy from the audience?

There were no questions.

Mr. Morley: This is the second reading. We will have another reading on June 28th – it will be our final and third reading on this to determine if it will be placed on the ballot. I know I commented in my Gazette article – as did other Councilmen – feel free to call Mr. Slocum at any time if there is anything you do not understand. This levy will be wide open and we will have all the questions we can answered for all of you.

Mr. Knuchel: I am sorry Mr. Morley, I have to go back to the last item we discussed. Are we going to make a motion to change?

Mr. Morley: It would have been your motion but I will ask someone else to make it.

Ballot Issue, con't.

Mr. Slocum: If anyone does have a question relative to the levy please feel free to give me a call at my office any time. I am more than happy to discuss and go over the need and how the funds will be used and what the cost of it is.

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

MISCELLANEOUS:

RE-AFFIRMATION: PARTICIPATION: URBAN ENTITLEMENT COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG)

Ms. Vaughn: In order for the City of Eastlake to participate in the grant through the Lake County Commissioners for the CDBG Block Grant funds the County must affirm a commitment to participate in the Urban Entitlement Community Development Block Grant program. In other words we have to give our blessings to the County for them to be able to participate in this as do the other cities that will receive funding. They have requested we pass this ordinance in support of their commitment to the Urban Entitlement Community Development and it will appear on this evening's agenda as Legislation No. 06-14-(05) after I add it with a Motion.

Mr. Knuchel: As I was reading the information we received it stated if we did nothing we would automatically be renewed. Is that through the County and is HUD the one who is requesting the legislation?

Ms. Vaughn: That is correct – it's per HUD's request – not the County's

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

CONTRACT: PHASE 2 JFK RE-ROOFING PROJECT: A.W. FARRELL & SON, INC.: \$83,815

Mr. Morley: Mr. Gwydir or Mr. Slocum?

Mr. Slocum: We had competitively bid the project and will be taking the funding out of the Senior funds. We recommend Council approve this – it is the last piece of roofing at the Senior Center that needs repair.

Mr. Morley: It definitely needs repair.

Mr. Slocum: This does include a \$7,500 contingency that is already built into this price.

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

AUTHORIZATION: POLICE DEPARTMENT INTERNET AUCTION

Mr. Morley: Chief Reik?

Chief Reik: We have our City auction this Saturday. Typically we auction the things in the property room that have been released by the Judge and things of that nature but we are also auctioning a small amount of City property including furniture and things like that. Additionally, we are doing an internet auction – we have three vehicles that we have seized through different means – instead of doing a typical on-site auction – we can get a better return from an on-line

auction. We have done this before and it gives more people the opportunity to look at the items and hopefully bring more money back to the City.

Mr. Morley: These are on e-bay?

Chief Reik: Yes.

Mr. Morley: As the Chief stated when we auction the vehicles here we may sometimes get \$50 for a vehicle. With them being put on the internet we will obviously get a lot more money. That is the reason for it.

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

OPPOSITION RESOLUTION: STATE OF OHIO SEEKING TO TAKE CONTROL OF MUNICIPAL TAX COLLECTION

Mr. Morley: Mr. Slocum?

Mr. Slocum: The State of Ohio as part of the biannual budget is considering the possibility of taking over the collection of income taxes from all the cities and centralizing that in the State of Ohio. We believe if we lose that type of control we will have no control whatsoever to ensure the monies that we should be receiving that we are. Similar to what we have seen with both the dereg money and the CAAT tax who knows if another Administration will come in and say they need this money for the State operations. I am extremely against any potential of this being sent to the State. The State already is collecting our tax for the utility – specifically CEI. Where two years ago we got \$300,000 – last year we got \$80,000 and this year so far we have received \$6,000. We cannot get an explanation out of Columbus. I have no idea what we would see if we lost total control of the rest of our tax collections. I whole heartedly recommend we support this resolution in opposition to the State taking over the City's income tax collection.

There were no further questions or comments. This matter was moved forward to the regular Council meeting for consideration.

BALLOT ISSUE: CHARTER AMENDMENT: ARTICLE II, SECTION I

BALLOT ISSUE: CHARTER AMENDMENT: ARTICLE V, SECTION 3

BALLOT ISSUE: CHARTER AMENDMENT: ARTICLE V, SECTION 5

BALLOT ISSUE: CHARTER AMENDMENT: ARTICLE V, SECTION 9

Mr. Morley: These are ballot issues for Charter amendments as submitted by the Charter Review Commission that we did not put on the ballot last November. I requested we not put them on this November's ballot but some of the people on the Committee have talked to Mr. D'Ambrosio, who was on the Committee, and me. They would like these ballot issues placed on the ballot. I am asking if Council has looked at these and has any opinion on whether they are on the ballot or not.

Mr. Lajeunesse: I am concerned about the financial issue. Mr. Slocum, do you know if it costs money to put these on the ballot?

Mr. Slocum: I know if they have to go to a separate page on the mailing and there is a cost it will go to the City. I am not familiar with the size of these and whether they would require an additional page and if we would be charged. I would have to take it to the Board of Elections.

Mr. Morley: Can we poll these until we can get that – unless Council has any other thoughts on it.

Mr. Slocum: I do have some upcoming business at the Board of Elections.

Mr. Morley: If you check on that we can talk about it at the next meeting.

Mr. Lajeunesse: I do appreciate what the Charter Review Commission did – that is not the issue. The issue is – our financial situation is in dire straits and even spending \$500 right now is to me out of the question.

Mr. Morley: They did work hard on these. But, the impact of them compared to the ones we put on the ballot last time will not have the same affect. Not to say these are not important but if it is okay with Council we will look into the cost first.

There were no objections.

FACT-FINDER’S REPORTS:

CITY OF EASTLAKE AND THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC.

CITY OF EASTLAKE AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, LOCAL 2860

Mr. Morley: We went into Executive Session where we met on the Fact-finder’s report with the Fraternal Order of Police, Ohio Labor Council, Inc. Also, we discussed the Fact-finder’s report with the International Association of Fire Fighters, Local 2860. We will vote on both issues tonight.

There were no further questions or comments.

ADJOURNMENT

The meeting adjourned at approximately 7:29 p.m.

dac

APPROVED: _____

DATE:_____