

# **City of Gahanna**

*200 South Hamilton Road  
Gahanna, Ohio 43230*



## **Meeting Minutes**

**Monday, September 26, 2011**

**7:00 PM**

**Council Committee Rooms**

## **Finance Committee**

*Beryl D. Anderson, Chair*

*Shane Ewald*

*Brian D. Larick*

*John R. McAlister*

*Nancy McGregor*

*Timothy W. Pack*

*David L. Samuel*

*Isobel L. Sherwood, MMC, Clerk of Council*

**Members Absent:** Timothy W. Pack

**Members Present:** Beryl D. Anderson, Shane W. Ewald, John McAlister, David L. Samuel, Nancy R. McGregor and Brian Larick

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**Additional Attendees:**

Tony Collins, Dottie Franey, Karl Wetherholt, Mike Andrako, Angel Mumma, Brandi Braun, Mayor Stinchcomb, Anthony Jones, Isobel Sherwood, Chief Murphy, Lt. Spence, Gen. Williams, Tom Weber, Brian Hoyt, Sue Wadley, Press.

**PENDING LEGISLATION:**

**ORD-0181-2011**

TO ADOPT THE RECOMMENDATION OF THE ADVISORY BOARD FOR THE OFFICE & INDUSTRIAL INCENTIVE PROGRAM GRANTING APPROVAL FOR CENTRAL OHIO UROLOGY GROUP, INC. FOR A PERIOD OF FOUR YEARS.

Samuel called the meeting for Monday, September 26, 2011, to order; said the first order of business is pending legislation for the Agreement for Central Ohio Urology Group (COUG).

Jones said after submission of the agreement, the City Attorney requested a modification; he said there was a need for clarification on the issue of what constitutes new jobs in section one of the agreement; the updated language states "COUG intends to create 90 new jobs, exclusive of jobs currently in the City of Gahanna as of January 1, 2011"; this does not change any parameters in the agreement.

Weber said now I am ok with this. Samuel asked for Council questions; there were none.

Recommendation: 2nd Reading, Amend by Substitution, Consent Agenda.

**Recommended for Substitution and Adoption**

**ISSUES - From Director of Development:**

**Contract Renewal - Asebrook & Co.**

Jones said we are bringing in 3 contracts for renewal; Asebrook & Company, Meacham & Apel Architects Inc., and Bill Conroy; these are Certified Building Contractors needed for back up; we don't use them frequently; only on an as-needed basis; last year we spent \$2,900 for these services; we are required by the State of Ohio Board of Building Standards to have them; for Bill Conroy, we use him for certification of electrical systems as Fultz and Frey are not certified to approve construction documents for electrical systems; it is a 2 year contract for Conroy; the other 2 contracts are for 1 year.

Larick said do we always use Asebrook and then Meacham as back up; have we considered alternating them or using only one. Jones said we use these contractors based on their areas of expertise; Asebrook does plan reviews; Meacham does inspections. Samuel reviewed the contract lengths; Conroy is for 2 years, and the other 2 contracts are for 1 year.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda for 3 contracts.

**Contract Renewal - Meacham & Apel**

See discussion under Contract Renewal-Asebrook & Co.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda.

### **Contract Renewal - Electrical Inspections**

See discussion under Asebrook & Co.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda.

### **ISSUES - From Chief of Police:**

#### **Enact Code Section 333.032**

Spence said we are asking Council to approve a change to the Gahanna Codified Ordinances by adopting a new Section 333.032; this new section of Code mirrors the ORC (Ohio Revised Code) Section 4511.091 which goes into northern Ohio county where an officer issued a speed citation on the visual estimate of speed only; the conviction was upheld, but the Ohio Legislature said we now need an electrical or mechanical timing device to confirm visual speed.

Larick said this is probably not more restrictive, but it kind of has the effect of being more restrictive doesn't it with the electronic requirement. Spence said we have not done visual estimates only here; in Gahanna we always use radar; with this request we are just keeping our Code in line with the ORC. Samuel said does this include pacing; following the person. Spence said yes.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda.

### **ISSUES - From City Engineer:**

#### **Contract - NPDES Permit Phase II**

Wetherholt said we have a request to switch consultants for our NPDES (National Pollutant Discharge Elimination System) Permit, Phase II; we have used Woolpert for the past 2 years to get and keep us up to speed with the detailed and stringent requirements of this, but they have discontinued this service; we interviewed OHM in Gahanna; they do this service for other communities and now we are asking to switch the contract to OHM; we will use the remaining funds on the existing purchase order and that will provide the service until sometime in the middle of 2012 when we ask for a new contract; we will use funds in the budget for Stormwater for that.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda.

### **ISSUES - From Director of Public Service:**

#### **Contract Renewal - Car Wash**

Samuel said I will turn the meeting chair over to Anderson.

Anderson said I am sorry I am late; next item is the contract renewal for car wash.

Franey said this contract is with Golden Touch on Granville Street; we currently pay \$900 per month and we average 100 washes; retail that would be \$1,400; this request is for a new contract for 2012 at a new cost of \$1,000; in 2013 it would go up another \$100 to \$1,100; asking for the legislation for this contract.

Larick said is this for police cars and all City vehicles. Franey said it is for most of the city; the police and any city vehicles that will fit can use it. Larick said are there any

competing companies. Franey said we are looking for a full service operation in the city; we checked Ron's but it is not full service and not in Gahanna. Franey stated that Police Department investigated bringing in a contractor to clean vehicles and the quote was \$600 per week.

Samuel said when the City's new car wash is built we will use that. Franey said that will be an option.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda.

### **Permission to Bid - Sanitary Sewer Line Repairs**

Franey said we have 2 areas of sanitary sewer that need immediate repair on Hamilton Road and Bow Drive; we would like to bid these 2 repairs out as 1 project; asking for permission to bid.

Recommendation: Motion Resolution, Consent Agenda.

### **ISSUES - From Director of Parks & Recreation:**

#### **Replacement of Golf Course Awning**

Collins said we need to replace an awning at the golf course; we would like to reallocate \$2,000 from our Capital Improvement fund to the Golf Course Minor Capital fund; the damage is due to vandalism; we would like to replace this before the bad weather hits; you will be glad to know that 2 of the perpetrators have been caught and are paying restitution. Chief Murphy said it is just a matter of time for the other one. Samuel said this is a large awning over the picnic benches, over a large area.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda.

### **ISSUES - From Director of Finance:**

#### **PERS Early Retirement Incentive**

Teal said we have received another PERS early retirement request; this is the third one in the Streets Department; we will need \$46,000 and because it is in Streets, it looks like 2 supplementals but it really is just one; then the funds are moved to the streets fund.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda.

#### **Human Resources Payroll Transfer**

Teal said we are requesting 2 payroll transfers in HR; was stated when we upgraded the Secretary position to full time, the money saved through Workers Comp Self Insurance would pay for the change so we would wait until later in the year to look for the funds when the amount needed was known; with Treadway leaving, the money saved from her salary will be used for funding so we are requesting a transfer.

Recommendation: Motion Resolution, Consent Agenda.

#### **Storm Water Transfer**

Teal said we are requesting a motion resolution to transfer money from the Stormwater Operational account to Stormwater Repair; we have had an unusually high amount of repairs and this transfer should give us the necessary funds to complete repairs through the end of the year.

Recommendation: Motion Resolution, Consent Agenda.

### **Holiday Lights City Expenses Supplemental**

Teal said we would like to submit a supplemental for Holiday Lights for your consideration; we have 2 major events in Gahanna; we provided support for the Blues and Jazz Festival and have invoiced the CVB \$13,000 for City Services for that; we are waiting for payment; the Administration has suggested that we could invoice the CVB again for Holiday Lights or since we are in better shape financially, we could provide the required services; in our report we outlined how the funds would be allocated for overtime and part-time hours to support this.

Samuel said I think it is the right thing to do. Anderson asked is everyone ok with the amount. Council agreed.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda.

### **ISSUES - From City Attorney:**

#### **Contract Renewal - City Prosecutor**

Weber said this is the contract for the City's prosecuting attorney; I am trying to act proactively as we near the end of my term; I would like to resolve this ASAP because this is the prosecutor for our Mayor's Court and for downtown cases and it needs to be in place on or before January 1 to insure the stability and predictability of the office; he has done an excellent job over many years and has the confidence of the police; our Mayor's Court runs well; the contract has the same terms and hourly rates; I don't want to wait on this; I would like to get it done ASAP to avoid any last minute confusion.

Anderson said the same basic terms in the contract means what. Weber said just the same terms and hourly rate; nothing changes but the year.

McGregor said this is for Ray Mularski.

Weber said yes; he is in charge of this office; he hires assistants and pays them; he is responsible for the operation of the prosecutor's office.

McGregor said I think since we will have a newly elected City Attorney, we should wait for him; it is a matter of timing; he may want some input.

Weber said the new attorney will not take office until January 2; in order to have a seamless transition to the new attorney, I would like to have this contract resolved; I have been in touch with Ewald and Leithart and they are aware this is what I wanted to do. Mayor said so this is a 1 year contract. Weber said no, 2 year.

McAlister asked what is the deadline on the contract. Weber said the end of the year.

McAlister said help me understand what is Ray Mularski's official title. Weber said he is a contractor who works under contract signed by the Mayor for the City; he is not a city employee and receives no benefits; he is paid his rate monthly. McAlister said so we contract with Ray Mularski to run this office but he is not the prosecutor. Weber said yes he is; he is the primary prosecutor.

McAlister said but he hires assistants; does he ever prosecute here. Weber said yes.

McAlister said who does he currently have as assistants. Weber said he has Kevin Mantel and Maria Grimshaw, who is new.

McAlister said do these 3 people only work here. Weber said they are also downtown; we have many cases heard downtown. McAlister said but they are here primarily on Thursday. Weber said one or more of them are involved every day of the week; it is a very involved, demanding position. McAlister asked do all 3 of them go downtown at times. Weber said yes. McAlister said and all 3 of them work here at times. Mayor said yes. Weber said Mularski decides the assignments; there is a clause in there that says if

the work is not being done he can be terminated; it is a 2 year contract but it could end earlier. McAlister said what if we as a city have a problem with one of these people. Weber said there was an issue that came up; we had some complaints to the Mayor about one of the prosecutors; I went to Mularski and he resolved them; there was a complete turnaround in the conduct of this individual who really is a good prosecutor; the police liked his work and the problem was a couple of public interactions; Mularski took care of it. McAlister said thanks; you have answered all my questions.

Ewald said I would ask you if you are happy with their services. Weber said I am happy with it; the fact that I have very little interaction is evidence it is working well; we have one of the best Mayor's Courts largely because of the interaction between workers there; the Court operates well.

McGregor said it seems like since we will have a new attorney we should wait until November or December to do the contract; if there is going to be a new 2 year contract to honor, we should wait until we know who the new city attorney is so do this after the election; another option is we could do it for just one year so the new City Attorney would not be locked in for any length of time.

Anderson said I think the one year contract would work for the same rationale; how long have these assistant prosecutors been around. Weber said Mantel has been here for 10 years, Grimshaw about 3 years; she is relatively new; Mularski is the constant; I would rather have this approved so if Council wants only a one year contract that is fine.

McGregor said the new City Attorney may want to keep things as they are; I would just like us to wait until after the election.

Samuel said so we can put it up for a vote; it should go on regular agenda; I would like to see some continuity; we may run into problems if we change things around mid stream. Anderson said so the only change we are seeing is to make it for one year; then the new City Attorney can change it. Samuel said look at the record. Weber said Mularski has been here approximately 25 years; confirmed by Sherwood. Samuel said their record, and I observed the Court myself, is one of the best. Anderson said coming from the political arena, things might be working now and have worked for 4 or 8 years but all that can change.

Ewald said I would add it works well; and it is not a political area; they are independent personnel; the last thing we want to do is inject politics into that Court; if this is working and the current City Attorney is happy with them, we should renew the contract; we always have the option to remove the services if they are not fulfilling their obligation; the current contract is for 2 years; just extend that knowing they can be replaced.

Anderson said what I meant was not to interject politics into this, but that everything today is fluid; the economy is in flux and everything is subject to change; even though it may not be political; the new person might want to have input.

McGregor said I would support the one year contract; not to say it is political or that it isn't working well, I just don't want the new person to have his hands tied for any length of time.

Mayor said if you wait until after the election, this will need to pass as an emergency.

Weber said if you actually hire a new prosecutor it will take months for them to come up to speed; if we have another contract period, the new City Attorney would have a period to review the functioning and monitor the office; I would hate to see chaos at the end of the year; I think what would happen is you would end up extending this anyway and it would be really chaotic; at least do the one year contract; I am not going to object to that; one year meets my concerns and my successor will have time then to reevaluate.

Larick said that makes the most sense now.

McAlister said I agree with one year; consensus seems to be one year. Anderson said I agree with one year.

Recommendation: 1st Reading, no need to come back, 2nd Reading, Consent Agenda, for 1 year contract.

**ISSUES - From City Council:****Resolution - Opposing Issue 48, Term Staggering**

McAlister said I saw McGregor's changes and the only change I would make is to the "Whereas" clause that talks about the highly unlikely situation where voters may choose to vote all the currently elected officials out of office; I would change that to say "the current system preserves the right for voters to choose to vote all elected officials out of office"; that is the right they have now.

Larick said I agree with the purpose of what we are trying to do; I do have concern with 2 segments; the first one is about not looking at this as a candidate running for office but as influencing the City; my perspective on this as it is proposed, is the at large candidates would have the ability in a ward election, if they so desire, to bind their influence to a single ward and develop their own majority among those 4 candidates.

McAlister said can't we do that right now. Larick said not with the way we currently do re election. Larick said maybe it can be done; but it now would allow those 3 individuals to use their resources, constituency, and influence with one very small segment of the City for a great deal of power; I would take that "Whereas" clause out.

McGregor said I think it is important; we do not have a lot of candidates run for ward elections; it would be a real disadvantage. Larick said I am not looking at it from the perspective of a candidate but of influence on the City.

McAlister said why don't you put that in as a "Whereas" clause. Larick said you mean put this perspective in as well. McAlister said yes; this is not set in stone; put in another clause.

Weber said one reason why people don't run for ward seats is 2 year terms; they are required to go back to voters more often; if you want to stagger terms, this is the only way to do it; we went through this at great length during the Charter Commission meetings; they determined if staggered terms were the goal, then the only way to achieve that was to start the rotation with a 4 year term.

McAlister said the message we want to send to the City of Gahanna is, in the entire history of the City of Gahanna, this has not happened; the Charter Commission was trying to come up with an answer to a problem that does not exist; 3 people running as At Large Candidates and 3 challengers, and all 3 challengers are voted in; what are the odds of that happening; in theory, the Charter Commission was trying to solve a problem; but the message we want to send as sitting Council members is exactly what is stated in this resolution.

Ewald said we talked about it from a retention perspective for the City and from the candidates' perspective; my concern is preserving the ability of the voters to make a decision every 2 years; they may not like the person representing them; if they are all replaced on one election, there is a pretty good reason why that has happened. McAlister said it is possible that a ward Council person could run and be a complete disaster; in that case you only have to wait 2 years to replace them; in my 10 years as a Council representative, I have campaigned on the fact you have to run every 2 years; this gives voters more choice than if it was every 4 years.

Anderson said I have a question about the goal; even though it is unlikely that the turnover would happen like this; was the goal overall to meet that small probability.

Weber said we checked other cities around the area and found the majority have staggered terms; some political event may occur; unlikely but it could happen; but the real reason to do this was to have a cycle so all Council members were not up for election at the same time; that was the purpose; it is not likely they would all lose but that could certainly happen; once they identified that problem, then this was the solution. McAlister said the voters are going to decide this; at best all we can do is add our opinion to the field and see what happens.

Anderson said so that was the only scenario. Weber said we have the Mayor, City

Attorney, and all of Council up for election at the same time; they believed that was not a good thing; that was the issue; one thing discussed was they thought you could have all the seats run at large, then stagger them.

Samuel said were there any cities that have that. Weber said yes there were some small cities that have everyone run at large; but then we got into how many people even know what ward they live in; this change that the Charter Commission wants to make makes sense for the 10% of voters that know their ward or at large Council persons; ward Council people address the issues based on the city; what is best for Gahanna not just each ward.

McAlister said I would suggest unless one of us has serious pain with this or more additions to this that we go ahead and pass it along; people are going to vote for it or not.

Larick read his proposed change to wording. McAlister said we still have time on this. Larick said I do not want to extend this past next week; our intention is to vote on this at the first meeting in October.

McGregor said we could look at this several ways; undue influence could be good or bad. McAlister said in past campaigns people have formed coalitions. Larick said understanding those coalitions are all candidates up for re election, this is people not up for re election that only have to concentrate on one segment of the City just to have a majority; that is my concern.

McAlister ok, why don't you write something up and email it and have to all by Wednesday. Sherwood ask for proposed change to be read one more time.

Larick agreed to write up changes and email Sherwood and copy Council members by Wednesday.

Recommendation: Resolution for Regular Agenda.

## **Resolution - Issue 2**

Sherwood said McAlister emailed this out to you over the weekend. McAlister said any questions or comments, or we can vote as it stands in draft; one person, a constituent I was bouncing this off of, asked me where did I come up with all the facts and figures included; lifted from a study by the Buckeye Institute; if you do a web search and type in myths on SB5 a pdf document pops up containing all these facts; I was also at a meeting last week in Dublin where the president of the Buckeye Institute was there as the keynote speaker; and he cited all the states that don't have to contend with public employee unions the way Ohio does; he believes if SB5 is repealed, we can basically kiss Ohio good bye; it is going to mean higher taxes to run the cities and gold plated retirement plans; this one "Whereas" clause says taxpayers pay between 14 and 34.5% of government workers salary for retirement compared to private sector Ohioans who receive 10.2%; these gold plated payouts exceed even the ones from the hey days of the 1950s through the 1970s where defined benefit plans guaranteed workers sent companies into bankruptcy; it is an unsustainable track for government workers; SB5 asked for legislative relief from contractual labors costs; now opposition wants to do away with it; we have an obligation as a City Council to look out for the wallets of our constituents; our constituents don't want to pay for gold plated benefits; salaries still negotiable; SB5 protects the rights of workers who don't want to join a union; myths are out there; trying to show the facts; more myths than facts are being seen in ads about fire fighters and police; death and injury rates that don't allow collective bargaining is the same as in states like Ohio.

Mayor said my suggestion to Council would be when doing a resolution like this one to keep it factual, there are a couple of phrases like the second to last "Whereas" where you say you are handing control to big labor; and the use of the term "gold plated".

McAlister said I can agree; just go ahead and eliminate that.

Anderson said do we want to think about this and bring it back in 2 weeks or are we ok



for Monday. McAlister said I have no problem bringing it back in 2 weeks; any other comments.

Recommendation: Return to Committee of the Whole on Tuesday, October 11.

**Miscellaneous:**

Sherwood said I would like to remind Council that their meeting for Monday, October 10 is moved to Tuesday, October 11 due to Columbus Day; the Jaycees were scheduling a Candidates Forum that night and they are working on a new date for that.

Jones said there will be a ribbon cutting at 11 A.M. for J.P. Morgan Chase on Techcenter Drive; a good opportunity to see and hear about this; they have 670 employees working there now; need 450 more.

Meeting adjourned.

**Della Brandenberger, Reporting**