

City of Gahanna

*200 South Hamilton Road
Gahanna, Ohio 43230*



Meeting Minutes

Monday, August 11, 2008

Note Early Start Time for Tour of Central Park - Meet at City Hall

5:45 PM

Council Committee Rooms

Committee of the Whole

*Thomas C. Evers, Chair
Beryl D. Anderson
Shane Ewald
Thomas R. Kneeland
John McAlister
Nancy R. McGregor
David L. Samuel*

Members Present: Thomas C. Evers, Shane W. Ewald, Thomas R. Kneeland, John McAlister, Nancy R. McGregor, Beryl D. Anderson and David L. Samuel

Additional Attendees:

Mayor Stinchcomb, Jerry Isler, Isobel Sherwood, Sadicka White, Anthony Jones, Matt Huffman, Kristen Treadway, Angel Mumma, Mike Andrako, Chief Murphy, Lt. Spence, Dottie Franey, Terry Emery, Karl Wetherholt, Tony Collins, Chris Miller, Dave Thom, Kristin Rosan, Press

TOUR CENTRAL PARK

Meeting called to order at 7:03 P.M. by Evers.

Evers said thanks to everyone for participating in the tour; it was very informative and great to see the progress.

PENDING LEGISLATION

ORD-0161-2008

TO AUTHORIZE THE MAYOR TO ENTER INTO AGREEMENT WITH STATEWIDE EMERGENCY PRODUCTS FOR EQUIPPING AND UPFITTING THREE DODGE CHARGER POLICE VEHICLES; TO WAIVE THE BID PROCESS; AND TO SUPPLEMENTALLY APPROPRIATE \$57,500.

Chief said this is to upfit cruisers; any questions? McAlister asked if this is for the 3 purchased on ORD-0160-2008 and the correct cost for this upfit is \$57,500 from the General Fund. Mayor said yes. Anderson said her earlier questions had been answered.

Recommended for Adoption, Consent

ORD-0164-2008

TO ENACT CODE CHAPTER 1181, PERSONAL WIRELESS SERVICE FACILITIES, OF THE CODIFIED ORDINANCES OF THE CITY OF GAHANNA; AND TO DECLARE AN EMERGENCY

Evers asked for specific questions. McAlister said this is the ordinance we paid the consultant for in the big package; I talked to a Verizon representative and the Ordinance is fine with most of the wireless providers. Mayor agreed; said this is something we all can live with; took a lot of work to get this done. Kneeland said that he asked for Planning Commission members to be here to cover the high points and to convey changes; what is better or worse or what was tweaked; when you want those folks engaged feel free, I just wanted you to know I invited them.

Samuel asked if Gard will be the compliance person. White said from the administrative end, Reynolds is the enforcement officer in the field. Samuel said so we have adequate staff for the enforcement of the ordinance. White said no we do not; we will have to have a consultant not on staff for the technical information; hope we can recover that cost in fees like application charges as a best option; we want a consultant to give us a technical report then Planning Commission will utilize that information and we can do the rest in-house.

Thom said the vendors all have to generate wireless reports to the government and we will have access to those; some are done on a yearly basis to check out towers and we will see those in Planning Commission; this is one of the most difficult ordinances I have ever seen; very technical and legal and covers new ground; the first go around from Kreines was convoluted and not user friendly as it was hard to follow and

confusing; after hearing the concerns from the carriers; we hired Chris Miller to help redo the ordinance and got it to a point where it is more user friendly; not perfect but it gives us all a starting point that the vendors are in agreement with; it will have to be reviewed and tweaked on a regular basis and we will need consultants on anything major; we hope we can recover those fees; Planning Commission felt we had an ordinance that the wireless people felt comfortable with so it was sent on to Council with our recommendation.

Rosan said she would cover the specifics that are good; 2 parts still need zoning and building permits; the application process looks at the site design and safety; on the application there is fee schedule so that Development can recoup fees for experts they need to hire; 3 good things about this ordinance; 1st, it requires the applicant to submit one alternative; could be a shorter tower, or another location or a design difference; but the vendor is forced to look at them and we can see if it is the best option; 2nd, applications are tiered so if they want quick turn around there is a way to achieve that; the tier 1 is some type of facility in a public right of way; gets a quick review so they are encouraged to look at this route; tier 2 is an existing structure and tier 3 is a new tower; last, if a tower or other wireless device has a built-in co-location opportunity the vendor doesn't have to go through the whole process and it is much cheaper and not so involved; encourages them to look at co-location first; I had the opportunity at the APA Conference I attended to go to a seminar with some municipalities who had lawsuits against them; many were facial challenges; vendors suing before they even applied as barred from submitting; the basis is the ambiguity; subject to approval; our ordinance does not have that; we needed and got very specific items; it is a good process and has a way to appeal if they need to so no additional requests from left field can be thrown in; the administration was very helpful bringing in Chris Miller and we have a very good product.

Samuel asked which tiers the providers will use. Rosan said she is not optimistic to see a lot of tier 1 since they have to have a line of sight; more expected to do small jumps than big towers since there are not a lot of places in Gahanna for big poles; demand is up; I live in Farm Creek and can't use my cellular service; demands may drive vendors to use other alternatives.

Evers asked Chris Miller if he had comments. Miller said he did not have much to add; concerning facial challenge issues; there are 2 ways to challenge; besides the earlier one mentioned; once the decision is made would be the historical way to do this; the whole thing is kicked out; as originally drafted this is what would have caused the most problems.

Kneeland said thanks for all the information; know how much of a painful process it was for Planning Commission; are you planning to look at it on a regular basis for updating or review? Thom said we have not made a plan for that; we need to do that as a monitor item for Development and Planning Commission; the original draft was open to many legal challenges; now it is user friendly; we are off to a good start but it may need to be tweaked. Kneeland said on page 2, the co-location review, part of my concern is when we provide guidelines for a construction model it allows other companies to add attachments to the tower; loading the tower; and it could be in a location where there is more population adding risk; was that considered and how are we dealing with that ongoing? Rosan said 2 things, if approved with co-location, then 3 vendor devices are allowed on the top as approved; so someone comes in later, now it needs just administrative approval; if not pre-approved, the vendor application has the whole process to go through; also requests for residential locations require the full tower height for set back so no harm can come from falling equipment. McAlister asked

when putting up towers, aren't vendors subject to guidelines from insurance providers. Miller said most are self insured; normally they have a policy for big limits covering many towers and do adequate coverage.

Kneeland said as closing comments, I want to thank Planning Commission and I am happy the alternatives are there; when we first looked at this it was purely about aesthetics; now that generations are going wireless, safety and quality dependable service especially for 911 are being addressed; this is a great job. Thom said on behalf of Planning Commission we want you to know Chris Miller did a great job; without his help, couldn't be done.

Evers said if no other questions we can put this on consent agenda. Kneeland said there are a couple of minor things I talked to Miller about and I would like to know that these are incorporated prior to consent agenda. Miller said the issues of concern should be made clear; our process in the application provides for an FAA response in the initial application which is much different than how it was done in the past; after intake we look at it and determine best alternative; do we want to be more specific in there; another section says that lights are not allowed unless the FAA says it has to be allowed. Anderson asked how can we override the FAA. Miller said we are getting their opinion; they may say if you put it there it has to be lighted; we then say the lights are a problem; see some options on approval because of lighting; add language to point it out even though it is implicitly in there. McGregor said when the cell tower for the cemetery was turned down it was because of the light; BZA found out that it is possible to have the FAA provide determinations of no hazard and height requirements; FAA requirements are 352 pages long; will there be conditions or requirements we will know and so we won't review. Anderson said she was on BZA when that was done; the more information we detail the better off we are; I do not see this on consent; even though the outline is clear someone will find a way to bring up litigation; I know we have a review process in there; this is such a changing area of the law; we should be explicit and have no confusion.

White said Weber had sent her an email to remind all that we are beyond the moratorium; additional review can come after approval; Planning Commission has the right for any other documentation, plans or testimony they deem necessary for a determination; photometrics can be required and we would have to get an engineer to make determinations on the lighting; if the edge of a property has too much light then we turn it down; so FAA approval does not give the vendors an automatic solution; at this time we need to pass this unless we can get it changed by next week. Kneeland said with no looming applications would we cause a negative impact if we go ahead and pass this and then come back and review; said all along I thought the moratorium was not long enough; there are pieces not addressed. Anderson suggested a time period be set. Miller said the changes discussed tonight could be done by Monday. Sherwood said it would need to be Friday for Monday's agenda. Miller said that is doable; whatever we do to address these issues we need to make it as simple as possible; we don't want to complicate the process; so it will be done by the end of week. Anderson said then I favor passing this to getting revisions on Friday.

Miller said he wanted to explain Kneeland's other concern; when someone comes in, there is a determination where they sit on the ring around the airport that causes the FAA to prohibit beyond that area; we could have the ring in our system and then not approve requests until we have the proper FAA documentation; they have to do what they need to do up front; I will make these 2 changes. Evers said this will be done by Friday.

Recommendation: Consent agenda after amended by substitution

Recommended for Substitution and Adoption**ORD-0155-2008**

TO ENACT CODE CHAPTER 1173, RESIDENTIAL PORTABLE TEMPORARY STORAGE UNITS AND CONSTRUCTION WASTE RECEPTACLES, OF THE CODIFIED ORDINANCES OF THE CITY OF GAHANNA

White said we asked for input and none was received; you asked about Westerville's process so that code is being provided; it says PODS are allowed on site 14 days; need to be on a paved surface or driveway; allowed 2 in 12 months; go to the BZA for exceptions; they do have a calamity exception and dumpsters are different requiring a building permit.

Evers asked if we determined how many of these are being used in the community and if we are still considering putting the permit responsibility on the vendor. Huffman said we have had less than 12 complaints in 7 years; there is no way to know how many are currently being utilized. Evers said he thought Gard was going to ask the vendor for some usage statistics; we need to know the scope of this; how large an issue is this. Huffman said there are a couple of PODS that have been in place long term. Kneeland said this sounds like a case of punishing the masses for the sins of a few. Thom said Planning Commission felt that when we did receive complaints we had no process to deal with them; I know of one that sat on Carpenter Road for 2 years in the driveway but there was nothing I could do about it; with all of them out there it would be nice to have something on the books; not all of Planning Commission was in favor of permits.

Ewald said his concern in regulating a portable unit is most residents are not going to know about it unless the vendor advises them; I do not support a permit; seems like a small problem; enforcement has the ability to make a phone call to the vendor to find out when the POD was placed; we hired an additional Code Officer to look into this and to require a permit is taking it too far. Samuel said we have been told the ones on the street are handled by the Chief. Chief said yes the vendor does advise them to see me; I then go out and look. Samuel said so that is if their driveway is too steep or just poured. Chief said my concern is safety; I have to look at the curbs and fire hydrants; I get more than a dozen calls about north of Morse Road but it is not my jurisdiction. Ewald said the current process for on a public street is ok; off of public street a time limit is ok but a permit is not. Thom said then how will you be notified when one is delivered and removed. Mayor said then we return to responding only to complaints; that is what we doing now.

Anderson said the time frame should be 30 days; when folks move 14 days is a very short time frame so I would be in favor of 30 days. Rosan said this has a 30 day extension. Samuel said I think it would be doable to have the vendor contact us. Thom said I agree with Ewald that the residents won't know about the requirement; in the building industry the contractor takes the permit out; have the vendor issued a permit when a POD is delivered. McGregor said the objective was if it was there for a week or two to move, no permit; if contractor knows it will be longer the delivering company should know. Thom said if a contractor comes in they are allowed to get permit and have more time; the construction process is separate. Kneeland said in our comments from 2 weeks ago, these are for people moving into or within Gahanna and a few unique cases; so what are our goals here; the problem is with some cases where there are long term units being used for sheds or other storage; wrong for us to put the burden on people just trying to move and make them get a permit; this is small problem so doesn't need a lot of rules.

Mayor said without Council action this will go back to PC. Sherwood said Weber is not here but he said if it has substantial change it will have to go back.

McAlister said from what I am hearing it is not a big problem; if we set a number and say we get this many complaints then we call it a problem and address it. White said short of what McAlister said, we could drop the permit part and say the clock starts ticking when we get a complaint. Anderson said so when the clock starts ticking what would the process be. White said give them 30 days; if we get a complaint, the day we check we call the company and then count forward; they have to have it out in 30 days; still pass code with no permit or not have it in the code at all. Samuel said or have the vendor continue to notify when they are put in; start the clock then. White said we would still need code; need a beginning and end time and a code that says you have 30 days. Ewald said he agrees with the way White is presenting it; don't want to create more headaches around the corner.

Evers said I would still like to see a push back to the vendor and have them file for a permit, set a nominal fee; \$5 even if someone is moving; that would give us the running log; vendor knows he has 30 days; issue citations to the vendor. Anderson said I agree with that as an approach; notice and communication is key; moving folks are not going to know unless it is in their contract. White said she didn't know what Westerville charges for a fee but we need a way to track. Evers said there is not a consensus; and we need to talk to Weber. Sherwood said these are substantial changes that will take this back to Planning Commission; I recommend you put it to a vote, then when turned down it will go back to Planning Commission; this would also include the next ordinance as well.

Recommended for Adoption

ORD-0156-2008

TO AMEND THE ADOPTED DEVELOPMENT FEE SCHEDULE AS REFERENCED IN CHAPTER 148, DEPARTMENT OF PLANNING AND DEVELOPMENT; TO INCLUDE A NEW FEE ON THE ZONING FEE SCHEDULE

See discussion under ORD-0155-2008

Recommended for Adoption

ISSUES - From Director of Human Resources

Test License Agreement for Ergometrics

Treadway said this ordinance is for the Mayor to sign our agreement with a new vendor for our test process; we are asking for emergency only for the agreement so the tests can be ordered. Sherwood said we have not ordered from this company and normally we need 2 weeks; feel waiver should be added. Treadway agreed.

Recommendation: 1st reading with waiver of 2nd reading and emergency language; consent agenda.

Salary Analysis

Treadway said she is requesting a \$10,000 supplemental and authorization for the Mayor to contract with Slavin Management for an updated survey of compensation; what questions do you have? McAlister asked why this is necessary at this time. Treadway said it was recommended that every 4 or 5 years we check it out; these reviews are based on other municipalities and some responsibilities have changed; we do the resurvey as suggested and see where we fit. Mayor said she sent out a memo. Samuel asked what cities they look at; do they choose the cities based in Ohio or with similar size? Treadway said not all cities responded to the original survey so we only go back to those that responded; Beavercreek is in there; the consultant gets more specific; they gave back salary data so we could set up benchmark jobs. McAlister said so this was done in 2004; it has been 4 years. Treadway said it was a long process but the

original data was collected in 2004. McAlister said I have no problem. McGregor said she would like this on regular agenda, not consent.

Recommendation: First Reading on Regular Agenda

ISSUES - From Director of Finance:

Purchase of Service Credit

Mumma said we are requesting 2 ordinances; one for the Ohio Police and Fire Pension Fund and one for the Ohio Public Employees Retirement System; this would allow employees to purchase service credits on a pre-tax basis; I want to make it clear that it is not the City picking up the cost of this; the term employer pick-up is used as an IRS approved term for shares as a fringe benefit; these ordinances just allow the employee to buy back at no cost to the City.

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

Code Change - Section 135.02 - Sale of Obsolete Items

Mumma said we currently have no way to sell items on the internet; this Code change will allow us to sell via the internet; take a lot less time than what we are currently doing; this was approved by Weber. McAlister asked if this is a site the general public can use. Mumma said yes; our goal is to have another way to get rid of surplus government assets; these auctions sites are very reputable; the Mayor will have to enter into agreement with each auction site; GovDeals, Inc. provided us a list of customers; there are 148 and it includes all the local cities; they charge 7.5% of the closing price; the 2nd one is Asset Auctions LLC and is used by Westerville and the State of Ohio; they charge a buyer's premium; we have 4 cruisers to sell so we thought we would put 2 on each site and see how it works out; there is no long term commitment and no charge to post the items; if they don't sell we just remove them; contract is a loose term as we are not really committed for any time period; we will put a link on our website. Anderson asked what other items will you sell. McGregor said computers, fire escapes and hydrants, furniture, bikes. Evers said will you sell property room stuff. Mumma said yes; space is a problem now we can't store stuff. McGregor asked about small items like knives and seized property. Chief said previously we could not destroy these; now we have a partner in the Highway Patrol so most of that stuff is melted down.

Recommendation for Code Change: 1st Reading; no need to come back; 2nd Reading, Consent.

Recommendation for Contracts: 1st Reading; no need to come back; 2nd Reading, Consent.

Contract with GovDeals, Inc. and Asset Auctions

See discussion under Code Change-Section 135.02.

Street and State Highway Funds - Supp. App.

Mumma said a check we received for \$22,357 was deposited into the Street and Highway Fund; this money was actually for a DARE Grant that we had not been notified of; we thought it was gas tax so we deposited it in the Streets Fund; the error was caught by the auditor; need to correct it by paying the General Fund \$22,357. Evers said so this is bookkeeping corrections for these 2 funds.

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

ISSUE-From City Engineer:

Lincoln Circle Modifications-IMP # ST-934

Ewald said the Lincoln Circle Modification has been added to the agenda. Wetherholt said in order to move forward with a proposal, some design changes need to be done; this is a preliminary design that focuses on a cul-de-sac bulb and less on the widening of Lincoln Circle; would be added to the scope of services for the designer working on this; we would need to have a supplemental appropriation and authorize the Mayor to enter into contract; we have been working on some public involvement with other property owners; we have access issues for trucks. Evers said Ewald and Kneeland worked with the property owner to come up with a solution where the owner and the City will provide a right-out-only drive; Lincoln Circle will be one way only; the cul-de-sac will have mail drop off boxes. Samuel asked if all the environmental concerns are solved. Wetherholt said this comes close; not as bad as widening would be. McGregor said so the planning costs are \$15,500 and it will be \$45,000 for the road bulb and drop boxes; \$13,000 for the right-out turn lane; I can't support this because I believe it is not going to make people happy; we would be spending \$60,000 and because the Post Office is still located there they are not going to be happy; people want it to move. Ewald said the drop box location is only part of what is offered; we are adding egress in and out for 9 to 10 years; right now there is only one entry point; left turns are taking place; if we make it one way it will push the traffic around. McGregor said adding an exit creates a chance for accidents. Wetherholt said this configuration is tolerable; it is a good trade off to locate the exit where it is. Samuel asked if we had spoken with other stores in the shopping center. Ewald said the 3 big players are the City, the Post Office, and the property owner; we are now getting the plans together; then we will present it to the property owners; this will cause residents to drive past their businesses; currently they don't see the other end of the shopping center; this may not be ideal but it is the best we can do; worth considering since this one of our ongoing top 5 complaints. Anderson said with Gahanna growing and the Post Office lease going on another 9 years, even though I share McGregor's concerns, I see the exit at other end of the center that can only turn right as an effort to make it workable; see this as an effort for remedy. Evers said we should bring this back in 2 weeks. Kneeland said we could then follow up and invite folks back. McGregor said I applaud the effort; just know people are not going to be happy it is still there.

Recommendation: Return to Finance Committee in 2 Weeks

2007-0060

Monitor Items:

1) Wireless Communication Legislation

Kneeland ask if we are still tracking the Wireless Communication Legislation. Evers said we should leave it on the agenda until the ordinance is passed.

Della Brandenberger, Reporting.