

# **City of Gahanna**

*200 South Hamilton Road  
Gahanna, Ohio 43230*



## **Meeting Minutes**

**Monday, April 9, 2001**

**8:30 PM**

**Council Committee Rooms**

## **Committee of the Whole**

*Michael O'Brien, Chairman  
Karen J. Angelou  
L. Nicholas Hogan  
Thomas R. Kneeland  
Debra A. Payne  
Donald R. Shepherd  
Rebecca W. Stinchcomb, ex officio*

**Members Present:** Debra A. Payne, Rebecca W. Stinchcomb, Thomas R. Kneeland, L. Nicholas Hogan, Donald R. Shepherd, Karen J. Angelou and Michael O'Brien

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### **ADDITIONAL ATTENDEES**

Press; Angel Mumma; Raleigh Mitchell; Sadicka White; Isobel Sherwood; Donna Jernigan; Harold Davis, AEP; Mayor; Jerry Isler; Karl Wetherholt; Tom Weber; Col. Hall; Tracie Davies; Chris Miller; Eric Stewart, Ameritech

### **ISSUES:**

#### **Right of Way Legislation**

Davies stated that we have been working on this the last couple of months; rewriting it with Schottenstein, Zox and Dunn; we have Chris Miller with us to go over the new information. Miller stated that in essence this would be an Ordinance that Gahanna would use to regulate and manage itself in its right of way, including telecommunications and other utilities, city streets and sidewalks, general thoroughfares, old streets that have been undedicated and turned back to general use.

Weber asked Miller to go over how the fee structures had changed. Miller stated that this ordinance is set up in 3 sets of fee structures; initial application fee is a one time fee of \$2000; each provider who is in the right of way will pay that when they make application; will need to have a laundry list of things; basically this allows providers to apply for a certificate to occupy a portion of the right of way; City would be deeming that entity appropriate. The other two major fee structures are broken into an annual fee maintenance for certificate holders; providers who have the initial certificate must pay the next fee depending on usage; if they use less than 10 miles of right of way it would be \$5,000; if they use more than 10 miles it would be \$10,000. Weber asked why was that changed; the version he had did not state that change. Miller stated that he was going off of the April 4 version. Council had only received the 3/14/00 version. Davies apologized and stated she would get everyone the latest version. Miller stated that there are a number of reasons behind change; met with industry providers and they informed us that not only was \$10,000 and \$20,000 too much, but also \$5,000 and \$10,000; used what other cities are currently operating under; see how it compared to Gahanna; best approximation we could come up with; seemed to be reasonable with other cities; best and most appropriate amounts. Mayor stated that we can expect that amount to rise; Mr. Haney's figure would be the cost of managing. Miller stated that when you calculate the number of providers by those amounts you get Mr. Haney's amount of \$49,000. Angelou asked what does Columbus charge. Miller stated that they started asking in excess of 2 million dollars; not sure how they classified everybody; we do not represent them so I am not sure; the other fee structure for Gahanna would be the construction permit; they would have to go through the City for a permit for construction; Service Director can come up with a set of standards; it would supplement what you have today; make it more appropriate; in that concept the permit fees may change; make changes appropriate based on amount of construction in right of way. Weber asked if the Director of Public Service would actually publish the fees; be part of the rule making authority. Miller stated that the providers and current users of right of way would sit down with the Director and provide input on what the construction really entails; the Director can set up rules and regulations, specific engineering practices and set fees for permits; that's where you get to the true cost issue. Kneeland asked if we would have the ability to reevaluate the fees. Miller stated that you could from year to year; there is

flexibility; there is a substantial amount of it; anticipate Director sitting down with holders of certificates and discussing what the plans are; this allows the Director to determine what will be happening; see who can join forces; the flexibility for the Director makes it responsive to utilities needs. Miller went on to discuss the minor maintenance permit; discovered that there are some very minor maintenance items like changing street lights; this concept is in conjunction to help them do minor maintenance; would be a very limited fee; anticipate very minor annual fee; allows providers to do certain things for certain periods of time; they could use their minimum maintenance permit for minor things like changing light bulbs and getting into pedestal boxes; also allows a provision for emergencies; this would allow them to apply the next full business day to get permit once problem is fixed. Angelou asked if it is noted what an emergency is. Miller stated that it is anytime there is a life or property that is in danger. Angelou stated that she wanted to make sure that they wouldn't come in later and say it was an emergency for the sake of convenience. Miller stated that the Director would have the ability to deny the permit and there are penalties for not having one. Kneeland asked about the section regarding securing all available as built plans in line with the plans that come through the city; what would the fee structure be for recouping the cost if the as built vary; how is that re-evaluated if additional costs are incurred. Miller stated that at beginning ask for a mapping format that the City can use; one of the issues with the industry is that they may have a mapping program and know how to make it work, but there is no standardization. Kneeland rephrased his question to say if there is some work done on Hamilton and it is submitted as a minor project; we review and run it through and the as built comes in and it's a huge project; plans were way to short; how do we recoup the costs. Miller stated that the permit if granted, would be granted for the minor as built that came in. Kneeland stated that he wanted to make sure there were checks and balances. Angelou asked if there were standardized mapping programs used by the industry. Miller stated that there are 3 programs; two of them can translate each other; utilities use some of those; one of the things the Service Director can do is establish in the rules and regulations what it is that you have and what do we need to get; may be some circumstances that for some reason they can't provide us with information that we need or whether we need to get different programs. Angelou asked how do other cities solve this problem. Miller stated that they don't get information; sometimes have no idea what they get; Gahanna may be ahead of the game; a lot of cities get paper maps or something they can't read; some pieces of information utilities will not have; Ameritech may have maps they have not been translated; you can mandate that they electronically translate; expectation is at the absolute minimum everything should be electronic after the ordinance passes and be up to date; they may have stuff that is older that can't be translated. Hogan asked what the big picture will be; if we went through this as is and every penny is collected according to fee structures, how much would the City collect. Miller stated that they are still not absolutely sure who is in the right of way. Davies stated that they are guessing around \$50,000. Hogan how much does it cost to collect the \$50,000; you have salaries to pay; checks and balances; people checking on things; interested in seeing how we will recoup our costs now that the fees have been lowered; are we getting into costing more money. Mayor stated that he won't debate those issues; only allowed to recoup a portion of the money; Haneys report stated \$48,000. Hogan stated that mapping is extremely crucial if utilities can provide us with it. Weber questioned the adoption of rules and regulations are not to materially increase the obligations of provider except fees requiring placement of materials; is that kind of concept going to fly; section 931.11 bothers me; it's going to cause problems. White stated that in this particular section in terms of present user in right of way coming in and making minor construction; the cost for review will be minor; right of way coordinator could look at that; not much cost associated. Miller stated that part of the reason the ordinance was different in 1999 the State of Ohio passed a law that changed things; that set of 3 pages changed the way that municipalities

can govern rightsof way in Ohio; rewrote old law as we knew it; couldn't charge more than direct incremental costs; if a utility provider were to cut the right of way they only had to restore to its original usefulness; have concerns with that; the cities of Dublin and Upper Arlington are suing Ohio; had an Ordinance prior to the passage of these rules; being currently litigated; reason those communities filed suit is we believe it violates home rule authority; right of way is not yours anymore; that is pending; have to be careful based on that law; nobody has been sued or pursued for passing these ordinances. O'Brien asked if we take the most recent rewrite of the document, is it a document that Council could take forward. Davies stated that the major change was the fee structure; the other things are terminology; this can be passed if you are comfortable with the fee structure. Hogan asked if we pass what we have in progress, can we turn around and change something in 4 months; could we pass new legislation; are we better off not passing something until we are sure. Davies stated that we need to pass this; we have these new companies that are waiting. Miller agreed that there needs to be something in place. Angelou asked if we change it are we conforming to the law that is. Miller answered that constitutionally you have the right to change it. Weber stated that he felt the fee structure is reasonable enough. Kneeland stated that the large utilities have seen this as an attack against them; we need to protect ourselves against the new providers that come in and try to attach to AEP and disturb Ameritech; because of the competition from undue costs associated with restoring our right of way; need protection against smaller companies just whizzing through town. Stinchcomb stated that she is not sure that the question of salaries was answered; if we endeavor in this we need to have costs recovered; if we have to hire someone to manage this because it is complex; we need to look into it. O'Brien wrapped up the discussion by stating that Council needed the April 4 draft; get it ready to go for 1st reading.

RECOMMENDATION: 1st Reading, Consent, Bring Back to Committee

### Scope of Services - Urban Spaces

White stated that the Mayor and I have had lots of discussion; these are drafts just to indicate what a general scope of services would be; then talk about terms of this; part of an agreement or contract with Urban Spaces. White read through the proposed document. (See Attached Exhibit A) Payne asked about the 3 specific potential developable Creekside areas; would they come up with that list; if you try to have a set amount for those 3 then we can work with them; but what if that list might grow. White stated that this is where we think we are going; if there more sites then we would amend or have another contract; it's open and can specify others. Stinchcomb asked if anyone has talked with Al Groves regarding this; is he amenable. Mayor stated that he has talked to him since; preferred to have the whole contract for oversight review of engineering plans; he said he would keep an open mind regarding this proposal. White added that Groves has not seen this; have been developing it for the Mayor; wanted to bring it to Council to make sure we are going in the right direction; we can go back to the drawing board; and then he would look at it; he does have some concerns. Angelou asked if he says no and doesn't want to do this, would someone else. Mayor stated that we could do these things in house with reviews; what we would lack by doing that is the experience Groves has; we would miss that kind of perspective; has been giving us the guidance; we could depend on in house people. Weber stated that he had talked to Groves and he expressed that his worry is that whether he is a part of this or not he does not want the concept to become eroded; seems to be concerned; doesn't want some change in the concept so that it loses its sparkle. Angelou stated that she felt he has been keeping us moving ahead and focused; disagree with the fact that he is not in control of the project; hope he'll consider to do this; are we just writing this to write it; injustice to Groves if it is not necessary. O'Brien agreed. Payne stated she would like to propose

this to him and see what he says; he may add to this; this is a good 1st start. Kneeland agreed; without Grove's vision and prodding we may be unable to maintain focus on what we are trying to accomplish; he is key to this project; would really be disturbed if we lost that focus. Payne stated that she and O'Brien are going there next week; would like to have this sent to him before we go; we will impress on him that he has guided us and we would like to keep him on board; need to have this as a starting point. Mayor stated that he thinks there is a really critical role for Groves; he was discouraged that he was not going to be recommended for the actual engineering on site; he does, in spite of the fact that he doesn't live here, feel this is valuable asset to the community.

Hogan stated that Creekside is an extremely nice project; Creekside will get better; we will still have a Creekside, whether Groves is part of it or not; very interested to see the figures coming back on this; why did we put this together; very curious to see the price come back; not that Groves shouldn't do it, but Creekside will be nice no matter who. Shepherd agreed; doesn't have a problem with Groves vision, but when you ask him to produce he doesn't have a quantitative way to produce; it seems like somebody has a dream and can't build the house; he doesn't come up with what we need; there are other creative people in Columbus; I agree that Creekside is better today than 10 years ago; Creekside will be a nice place to be; need to follow through on this if Groves says no; investigate someone locally; feels that it would still be prudent even if Groves agrees to put out some feelers; see what would be comparable prices locally. Stinchcomb agreed that if Groves turns this down she wants to see someone do this; disagreed with the fact that just anybody can do it; engineers can build but what do we do from there; we chose that firm for a reason; don't think we would be where we are today; won't have the quality without Groves; he has to come up with reasonable numbers; agreed that he had the weakest proposal; don't want to see this vision end here; this is only the beginning; if he chooses not to do it, I want to see somebody else plan on phase 3, 4 and 5. O'Brien stated that everyone has made valid points; we will end up with something good for Gahanna; Groves is someone who does this on a full time basis; we are talking huge projects; we do have the best in the country; there is no reason we can't come up with some way to measure what Groves does once we sit down and talk with him; City hires consultants all the time but we go to specialists when we have areas of expertise. Mayor and White will make contact with Groves before O'Brien and Payne meet with him.

## PENDING LEGISLATION

### ORD-0044-2001

SUPPLEMENTAL APPROPRIATION - Council, Universal Network Access

Kneeland stated that he talked to David Lee and he said he wanted to drop this until we can come up with a better solution; he is investigating other avenues and will bring it up again.

**Recommended for Indefinite Postponement.**

### ORD-0077-2001

SUPPLEMENTAL APPROPRIATION - Alcohol Training & Enforcement

Angelou stated that she would like to have it on regular agenda; not sure about the alcohol training and enforcement. Hogan stated that in committee the Chief had funds in that account. Angelou asked if there was a more appropriate fund; is it going to alcohol only. Chief stated that the City of Cincinnati used this same fund; gives officers probable cause to stop for DUI; the purpose of the motorcycle is to make stops for alcohol enforcement; using the money for this purpose. Mayor stated that we have always allowed moving money around in accounts; we are educating officers all the time in alcohol training; we could transfer this money for the training account. Chief stated that since account was set up 1989 it has never been tapped into; the enforcement will be stepped up by using probable cause for DUI, drugs and other things.

**Recommended for Adoption****ORD-0078-2001**

TO AUTHORIZE THE MAYOR TO ENTER INTO AGREEMENT WITH BENATEC ASSOCIATES TO STUDY THE CITY OF GAHANNA'S GARAGE, FLEET AND FUEL MANAGEMENT OPERATIONS; TO SUPPLEMENTALLY APPROPRIATE \$25,000 THEREFOR.

Col. Hall stated that it was brought up a couple of weeks ago that Council needed more information; gave Council information; needs approval based on new information. O'Brien stated that he still thinks it is a lot of money to just be turning over to them for an evaluation. Mayor stated that is why it is a not to exceed contract; we are going to make sure we agree with each bill. O'Brien stated he would appreciate a watchful eye on that.

**Recommended for Adoption, Consent****DISCUSSION:****Continuation of Discussion from Visioning Session**

Stinchcomb stated that in general she got a lot of mixed reviews regarding the last visioning session; personally had mixed feelings; did not get where we wanted to go; we have set aside the 5th Monday in April; would like to see it used for another visioning session; means different things to different people; do we need a facilitator; looking for feedback. O'Brien suggested General Williams; feels he would make a good facilitator; he could take the information that we have gathered and help us moderate and come up with a vision. Angelou stated that we have spent a lot of time coming up with a vision and a mission statement that really embodied everything; remembers the time when White had a whole list of projects and we put our money where we thought it was important; got a listing of priorities; did that in 98. Stinchcomb stated that she felt it did not come out the way she hoped. Payne stated that if we are only trying to prioritize we need an exercise like this. Stinchcomb asked if that was the sum total, just prioritizing projects; what are we going to do in terms of this calendar year; do we think we can do this in house; have someone different. White stated that they still had the program on the computer; would just need an update on the projects. Mitchell stated that Parks already has a 5 year plan; we do this very thing; we need to all get together and hear all the ideas. Angelou suggested a round table. Stinchcomb stated that the original intent was to talk about projects; asked each director to submit each project. O'Brien stated that we need to take the good planning of departments into consideration; Council needs to have the peoples vision; people have different priorities. Stinchcomb stated that we are all strong willed individuals; would be nice to have Gen. Williams come in. Mayor stated that he would talk to him tomorrow; he has done this type of thing for the State of Ohio. Stinchcomb asked the Mayor to talk to him and see how it would come about; need to make it happen. White asked that all the department heads would submit their top 5 projects so we can go ahead and format; submit 5 year plans. Angelou stated she would like to see a 10 year plan; capital projects.

**Stacey Bashore, Recording**