

Village of Clinton
Regular Council Meeting Minutes
of
Tuesday, September 6, 2016

Mayor Knack called the meeting to order on Tuesday, September 6, 2016 at 7:00 p.m. in the Clinton Village Hall. The Pledge of Allegiance was led by Dave Krock and was recited by all those present.

Roll Call: Council Members present: Marissa Gensimore, Kent Goch, Janice Godwin, Sharley Greer, Debbie Ikins, and Bud McDaniel.

Others Present: Sonja Herwick, Fiscal Officer; Terry Siegenthaler, Street Superintendent, Dave Krock, Village Engineer, and Chuck Clark.

Mrs. Gensimore made a motion to reconsider her vote from the last meeting regarding the motion that Mr. McDaniel made to have the mayor enter into a contract with Apple Creek bank in order to change of banks and credit card issues, second by Mrs. Ikins.

Mr. McDaniel asked if we were voting on the actual original motion or are we re-voting on this. Mr. Pitchford said you can reconsider as long as you were the majority. Mr. Pitchford asked whether the mayor has already acted pursuant to that authorization. If that's true you can't undo it once the mayor has acted on it. You might have another motion instructing the mayor to cancel that account, etc., but he has already done it. Mrs. Gensimore said before the last meeting minutes were approved? Mrs. Ikins said at the last meeting the fiscal officer stated that actions would not be taken until the minutes of the meeting were approved. Mrs. Greer said that was a mistake on her part as that would affect any legislation that you passed, and could not be posted or acted upon. All agreed that could not be the case.

Mrs. Gensimore said since it was already done, I make a motion that further financial issues are put through the Finance Committee and they can investigate to see what should have been done and if upon investigation there is a better place to put the Village's money, we will cancel the account and go by the Finance Committee's recommendation.

Mr. McDaniel said it appears your motion to reconsider is off the table at this point. It's moot at this point. This belongs under New Business.

Mayor Knack said PNC turned us down on our credit card. Mr. McDaniel said this needs to be discussed in New Business.

Approval of Council Minutes

Mr. McDaniel made a motion to approve the minutes as presented, second by Mrs. Greer.

Roll call: Mrs. Godwin, Mrs. Greer, Mrs. Ikins, and Mr. McDaniel voted yes; Mrs. Gensimore said she does not approve minutes as written and said to get a copy of the recording and listen to it, and Mr. Goch voted yes. Five yes votes, Motion Passed. Mrs. Gensimore didn't state yes, no, or abstain.

Mr. McDaniel made a motion to accept the August 16, 2016 meeting minutes as written, second by Mrs. Greer. Roll call: Mr. Goch, Mrs. Godwin, Mrs. Greer, Mrs. Ikins, Mr. McDaniel, and Mrs. Gensimore voted yes. 6 - yes, 0 - no. Motion passes.

Solicitor's Report – No report.

Police Report - No report.

Fire Chief's Report - No report.

Street Commissioner Report - No report.

Mrs. Ikins asked about Randy and his hours. Mr. Siegenthaler indicated that he and Mrs. Herwick spoke on this and his one fund is depleted and his wages are now being taken out of Parks as he is in both places. He was approved for a certain amount of hours. Mrs. Herwick said he is paid out of two funds, Roads and Parks. The Roads fund is depleted and his wages are now being taken out of Parks. Mrs. Ikins how much time now do we have left for Randy. Mrs. Ikins excused herself to review legislation. She said he is still working and I think as this is seasonal, we need to know how much longer we can keep him according to what was budgeted. Mr. Siegenthaler said his hours have been reduced – he is now down to working on Tuesday and Friday. Discussion continued on where this worker was paid out of and where the money will come from up until he is done with the Village this year. \$2,500 remains in the budget for this seasonal employee. The street superintendent determines the schedule of the seasonal employee within the budget. It was determined that the legislation for this worker did not specify a month in which his employment would end. Mr. Pitchford said the language of the legislation is not clear, and bottom line you don't need to do anything and even if we get into November and there is money left you could still be working with him. It states this is in effect till the end of 2016. The intent is seasonal and letting this run into the fall, there is nothing legally wrong with that. Next year, use the words "summer seasonal."

Zoning Report – No report.

Mayors Report of Money Received - In packet.

Fiscal Officer's Report – In packet.

Unfinished Business

Mrs. Ikins stated that she came up with a regular committee meeting schedule (attached). She had a one page memo for everyone. She explained how she laid out the meetings throughout the year. She also included Planning and Zoning. Mrs. Greer thanked Mrs. Ikins for all the hard work she put into this schedule but would like to review.

Mayor's Communications

Mayor Knack reported on the meeting he and Mr. McDaniel had with Mr. Krock. The mayor also reported on the Bicentennial "wrap up" he had with Mrs. Gensimore. In conjunction with the Historical Society, they want to get a commemorative plaque that will come from the State. A lengthy document needs filled out and we missed submission that was due in July. We will do next year and council will need to approve that because the Historical Society does not own the land where we want to put it – the Village Greens. The Village will be required to take care of it. It's in the planning stages.

The Mayor met with New Franklin and the Village Safety Committee needs to meet regarding next year's police contract. Mayor Knack read a letter he received from the City of New Franklin indicating the Villages contract with them expires on December 31, 2016. When the mayor returned from the meeting in New Franklin he met with Mr. McDaniel and relayed to him what transpired and Mr. McDaniel also agrees the committee needs to meet on this issue. The Village needs to negotiate a new contract. Mrs. Gensimore asked who attended this meeting and why our Safety Committee Chair was not there. Mayor Knack said that it was a last minute request to meet and nothing had changed, as they still want the same plan and money that he gave to council months ago. He indicated he was called the night before the meeting, rearranged his schedule to go as he wanted to see if there were any changes made that the Village should be aware of. Mayor Knack stated that he went to them and asked how their formula can still be the same since the election.

Mrs. Godwin said four years ago when we negotiated the police contract ending now, the mayor was not there at all. She said that Mr. Steiner was there with her and they told New Franklin we didn't have money. So if we paid them half of that, like we were paying – they doubled it on us – if we pay half of it, and take half of the service – they changed things around and came way down. It's the same routine they are doing this year. Mayor Knack asked Ms. Godwin how they came up with the figure and the increases. She said they had formulas and this many people. The mayor told them that this is the cost of living – here's what the rate is – we suggest this to that – and the increases for four years was the cost of living.

Mayor Knack said the Safety Committee needs to meet regarding this contract and bring back to Council. Mayor Knack said he approached the City of Canal Fulton and Mrs. Godwin approached Lawrence Township. Something needs to happen as it's already September. Mrs. Godwin indicated we did all this in October last time. Mrs. Gensimore said we have other options as well.

It was decided to have a meeting next Tuesday, September 13, 2016 at 6:00 PM. This will be posted.

Mr. Siegenthaler said the public needs to be aware of the price increase before making a decision. Mr. Clark asked Mayor Knack if the New Franklin police fuel at his station. The mayor answered yes. Mr. Clark had concerns, ethically, about this.

Mayor Knack talked about the rearranging of the filing cabinets and that council may use those that will not be needed in the vault.

Council Committee Reports

Mrs. Gensimore reported on the decision of the Bicentennial Committee to apply for the plaque and it makes sense to put on Village Greens. We need a resolution asking council to approve of the placement of the plaque.

Applefest is on the 18th and the ladies always look for help to set up and tear down. The website has been challenging. We are still having issues with the server we are still trying to work through and the billing relative to this.

She would like to have a Community Development Committee meeting in the near future. Mrs. Ikins said she would like input on her committee schedule as well.

Mr. McDaniel reported on lights that were out and that have been fixed. These repairs are done in the night time.

Mrs. Godwin restated that the Safety Committee will meet on September 13 at 6 PM.

Mrs. Ikins said that we never processed the funds transfer that was approved in this years' final budget appropriation from the General Fund to the Streets, Sidewalks and Parks Fund for \$150,000. There is a motion later this evening to transfer that money. We have been spending out of \$78,000 that was carried over from last year and were at the point of running out of those funds. We need to get that transfer done so we can do the sidewalk project. Mrs. Herwick said that this is prepped on her computer to do just that.

Mrs. Ikins also stated that when we passed Resolution R-16-17 on June 7, 2016, regarding approval for our Village Engineer submitting a grant application for the Main Street Culvert project, the fiscal officer certified that we had \$38,000 in the Streets account to pay for our portion of the grant. In the minutes of that meeting we stated that certification was meant to encumber that \$38,000. It was never encumbered and we can't do it right now as we don't have that much money in the Streets fund. She encouraged all members of Council to vote in favor of passage of this motion to transfer the \$150,000 into the Streets fund from the General Fund and encumber the \$38,000.

Mrs. Herwick stated that during that meeting we were told that would be the maximum amount and we waiting on paperwork back from them as to actually what was to be encumbered. Mrs. Ikins said the engineer had indicated that was the encumbering document and that's what we need to encumber.

Mr. Krock said that was the current estimate at that time. Most communities wait to appropriate those funds until the grant is either received or not. That certification by the fiscal officer was to ensure the funds would be funds in this particular account by July 1 of next year. You could move it now or leave in the general fund - however you want to do it. The certification is that next July those funds would be available. Mrs. Ikins said that's not what it says on the certification form and asked if it needed to be earmarked in some way as it's not in the budget anywhere. Mrs. Herwick said it's for next fiscal year, we have it, and we can carry it over from this year to next and needs to be put in next year's budget. Mr. Pitchford stated that what Dave Krock stated was appropriate.

Mrs. Gensimore and Mrs. Ikins stated concerns regarding this transfer that didn't happen. Mrs. Ikins also stated how it affected 2016 street projects that didn't take place.

LEGISLATION

First Readings

Ordinance O-16-29

An Ordinance Amending Ordinance 98-16 / Codified Ordinance 121.02, and Declaring it an Emergency.

Mrs. Gensimore made a motion to suspend the three reading rule, second by Mrs. Godwin.

Roll Call: Mrs. Godwin, yes; Mrs. Greer, no; Mrs. Ikins, yes; Mr. McDaniel, abstain; Mrs. Gensimore, yes; and Mr. Goch, yes. Four yes votes. One no vote and one abstention. Motion passes.

Mrs. Gensimore made a motion to adopt Ordinance O-16-29, second by Mrs. Ikins.

Mr. McDaniel asked for a brief overview of this ordinance. Mrs. Greer asked why she should vote for this. Mrs. Gensimore said this has been discussed for quite a while. The Laws/Ordinance and Human Resource Committee will be part of overseeing employee relations, interviews, insurance, and hiring recommendations. Mrs. Godwin said this was suggested by Connie Collings when she was our fiscal officer. Mrs. Gensimore we don't have an administration in the Village – the biggest part of it falls on the Council. Sharley Greer says she always works with the mayor on issues. A committee of three members should be talking and conversing as this is a committee issue.

Mrs. Greer said it's micromanaging as the mayor is the administrator of this Village. She read ORC 731.05 (attached). Mrs. Ikins stated that we hired our seasonal help through legislation. Mrs. Greer said the Street Superintendent came to us wanting to hire a seasonal helper, and wanted our blessing and that is what we did. Mrs. Ikins said we do the same with our solicitor, for instance, as well. Mr. McDaniel said Human Resources was on this committee at one time and was taken off. Mrs. Gensimore said however it was not officially done. I am offering it as legislation again.

Mr. Pitchford, relative to the formatting, suggested several amendments to Section 1, which he read through. Also, you will need to change information regarding standing committees. There is an omission regarding the number of people on the committee and the Chair that council needs to decide what they want to do. There is no legal right or wrong here.

Mrs. Gensimore made a motion to amend the ordinance to add the additional language currently in the codified ordinances, Section 1, That Section 121.02(e) of the codified ordinances shall be amended to *state* as follows: (e) Standing Committees for the terms shall be as follows: Finance, Streets, Sidewalks, and Parks; Public Utilities; Laws, Ordinances, and Human Resources; Community Development and Safety. There shall be three (3) members for each committee. The first member of each committee named shall be chairman. Seconded by Mrs. Ikins.

Roll call on motion to amend: Mrs. Greer, no; Mrs. Ikins, yes; Mr. McDaniel, yes; Mrs. Gensimore, yes; Mr. Goch, yes; and Mrs. Godwin, yes. Motion to amend passes.

Mr. Pitchford has concerns about the checks and balances that are intended in the ORC for government. He believes in the oversight role, but from a legal perspective, you could get yourself into legal trouble if you were to go to court with the language, "handled by, or exclusively," and I'm not sure what that means. If you are intending that all employment relations, all insurance issues and interviews and hiring recommendations are the exclusive purview of the subcommittee of the council, I don't think that's constitutional. I suggest it is vague and when laws are vague, they are unconstitutional. Mrs. Gensimore understands this. Mr. Pitchford said technically, in a hiring example for a fireman, it should come from a recommendation from the fire chief to the mayor, and the mayor hires with the approval of council. The Village codified does not include hiring/firing/due process language and it should be done.

Mr. Pitchford said you can take Section 2 out and pass this tonight and come back and pass another one and include in the codified ordinances. We can write a policy that says every employee has to be approved by the Human Resources Committee and the Council, but that's not what this

legislation says as it is vague and could be challenged. In my opinion it is still the mayor's decision with consent of Council. Council just can't hire – administration brings forth a recommendation which is proper and that is how governments are designed to work.

Mrs. Gensimore made a motion to amend - to remove Section 2 and to renumber the remaining sections, second by Mrs. Ikins.

Roll call: Mrs. Ikins, yes; Mr. McDaniel, yes; Mrs. Gensimore, yes; Mr. Goch, yes; and Mrs. Godwin, yes; Mrs. Greer, no. Motion passes to amend. 5 yes, 1, no.

Mr. McDaniel would like to see the “cleaned up” version and vote on it at the next meeting. Mr. Pitchford said you can table until the next meeting. Mr. McDaniel made a motion to table Ordinance O-16-29 with Mr. Pitchford's modifications until the next meeting, second by Mr. Goch.

Mrs. Greer asked what made this so very important that it had to be a first meeting passage request tonight. Mrs. Gensimore said it needs to be done and Mrs. Greer responded that there has to be reasons to help someone vote yes or no.

Mr. McDaniel said whatever we pass needs to fit nicely in our codified ordinances - I don't want it to be challenged. Mrs. Gensimore said that those sections have been amended to avoid that. Mr. Pitchford agreed and said passage of this legislation tonight renames our Laws and Ordinances Committee. You have set the table for discussion at the next meeting with respect to how the role of that committee should be further defined. The procedures have been corrected, and could be adopted tonight or revisit later to be more specific. Through discussion I would welcome input as to how you want it to look – a policy or full blown employee chapter in the Codified. Mrs. Ikins stated that the renamed committee could work with Mr. Pitchford on this issue.

Mr. McDaniel withdrew his motion to table Ordinance O-16-29, and the second was withdrawn.

Roll call to adopt Ordinance O-16-29: Mr. McDaniel, yes; Mrs. Gensimore, yes; Mr. Goch, yes; and Mrs. Godwin, yes; Mrs. Greer, no; Mrs. Ikins, yes. Motion passes. 5 yes, 1, no.

Ordinance O-16-30

Mr. Pitchford read: An Ordinance Amending Codified Ordinance 135.02, and Declaring an Emergency. Mrs. Gensimore made a motion to suspend the three reading rule, second by Mrs. Ikins.

Roll call: Mrs. Gensimore, yes; Mr. Goch, yes; Mrs. Godwin, yes; Mrs. Greer, no; Mrs. Ikins, yes; Mr. McDaniel, no. Motion fails. 4 yes, 2, no. Five affirmative votes needed to pass on suspension of rules. First reading only. Second reading will be at the next meeting.

New Business

Apple Creek Bank

Mrs. Gensimore said the Finance Committee needs to look at this. If they are the best solution for the Village so be it. Mrs. Ikins wanted to see analysis and options on this for comparisons. Mr. McDaniel said he spoke to the Mayor about this and he was happy with what he saw and asked him

questions. By the next meeting, bring questions on this. Mrs. Gensimore said one person on a committee does not make the decisions of that committee. Other members need to be involved.

Mr. McDaniel said we had issues with PNC and they didn't respond to us. I've heard Apple Creek is great to work with. The mayor's information and documentation on this should be looked at first before we go to the second step. Mrs. Gensimore said the committee needs to look at this. The Mayor agreed.

All members of the Finance committee agreed to meet on September 13, 2016 at 4:00 PM in Village Hall to discuss the banking issue and budget. Mrs. Herwick advised council that she has not heard back from the County the amendment on the tax budget that was submitted so that would limit what we would do at that meeting. Mrs. Greer wants the department heads and staff to submit their ideas / wish lists for next year. Council members, as well, need to submit certain things you would like to see done next year. Mr. Siegenthaler said regarding the \$38,000 talked about earlier, you have to earmark money for next year's projects. We have to know we have our portion. Mrs. Herwick said the one account that has \$80,000 in it, part of that is the \$38,000 held for that project. It is not encumbered – it's appropriated. Mrs. Herwick said we don't have the rest of the information – we don't know who and we don't have an exact dollar amount – it could be \$20K. Then we are stuck and can't use it for anything else. Mrs. Greer asked if that \$38,000 at the end of this year, gets rolled over and then we can encumber it 2017. She was told yes. You appropriate and then you encumber. Mr. Siegenthaler said that there should be a line item somewhere earmarked showing that. It's not. It should be encumbered for the OPWC grant so we can pay Mr. Krock. Mrs. Herwick asked if we got the grant – if we encumber and don't get it – that money is tied up. You have to earmark this money somehow. More discussion on this issue continued and decided this could be discussed further at the Finance Committee meeting on the 13th.

Mrs. Gensimore made a motion to go into executive session to discuss an employee. She would like all of council the mayor and solicitor to be present. Seconded by Mrs. Ikins.

Roll Call: Mr. Goch, Mrs. Godwin, Mrs. Greer, Mrs. Ikins, Mr. McDaniel, and Mrs. Gensimore all voted yes. Motion passed for Council to go into Executive Session.

Council returned to Regular Session.

General Discussion

Mrs. Gensimore asked about giving funds to the Bicentennial Celebration – did we spend it as we didn't use it. We need to decide what to do with that money. Mayor Knack said we may need it to put toward the plaque.

Presentation of Bills

Mrs. Greer made a motion to approve the transfer of \$150,000 to Fund 2011 – Street Construction, Maintenance and Repairs, second by Mrs. Gensimore.

Roll Call: Mrs. Gensimore, Mr. Goch, Mrs. Godwin, Mrs. Greer, Mrs. Ikins, and Mr. McDaniel voted yes. Motion was approved.

Mrs. Greer made a motion to approve payment of all bills and salaries on the Payment Listing Report dated for the month of August, 2016 and all Purchase Orders, Then and Now Purchase Orders, and Blanket Certificates on the Purchase Order Status, current YTD through August 31, 2016. Seconded by Mrs. Ikins.

Roll Call: Mr. Goch, Mrs. Godwin, Mrs. Greer, Mrs. Ikins, Mr. McDaniel, and Mrs. Gensimore voted yes. Motion was approved.

Citizens Comments

Mr. Clark spoke regarding an incident in which he said he was threatened by Mayor Knack. He was not going to speak to it, and is dropping it but wanted it on the record.

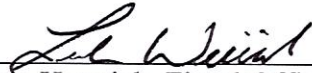
Meeting was adjourned.



Mayor Allen Knack



Bud McDaniel, President of Council



Sonja Herwick, Fiscal Officer
LEAH WEIRICK

PROPOSED REGULAR COMMITTEE MEETING SCHEDULE

Each committee would meet three times per year. No special notice would be required. Meeting topics would not be limited to a posted agenda.

Four months would include two week breaks between the second council meeting of the month and the first council meeting of the following month – January, May, August and October – with no committee meetings scheduled. This could be adjusted at the beginning of any year according to the calendar to maintain the break periods.

November and December would include holiday breaks for Thanksgiving and Christmas with no committee meetings scheduled.

Special meetings can be added as needed, around the regular meetings.

Regular meetings can be canceled or rescheduled easily by having a regular meeting schedule pre-determined.

Regular Planning and Zoning meetings are included in the calendar.

All meetings are spaced as evenly as possible throughout the year, around the holiday and two week break periods mentioned above.

Laws and Ordinances:

2nd Tuesday of September

2nd Tuesday of January

2nd Tuesday of May

Public Utilities:

2nd Tuesday of November

2nd Tuesday of March

2nd Tuesday of July

Community Development:

4th Tuesday of February

4th Tuesday of April

4th Tuesday of July

Planning:

3rd Thursday of February

3rd Thursday of June

3rd Thursday of September

Finance:

2nd Tuesday of October

2nd Tuesday of February

2nd Tuesday of June

Streets, Sidewalks and Parks:

2nd Tuesday of December

2nd Tuesday of April

2nd Tuesday of August

Safety:

4th Tuesday of September

4th Tuesday of March

4th Tuesday of June

Zoning Board of Appeals:

3rd Wednesday of each month

731.05 Powers of legislative authority.

The powers of the legislative authority of a city shall be legislative only, it shall perform no administrative duties, and it shall neither appoint nor confirm any officer or employee in the city government except those of its own body, unless otherwise provided in Title VII [7] of the Revised Code. All contracts requiring the authority of the legislative authority for their execution shall be entered into and conducted to performance by the board or officers having charge of the matters to which they relate. After the authority to make such contracts has been given and the necessary appropriation made, the legislative authority shall take no further action thereon.

Effective Date: 10-01-1953