

Held

**MONDAY, AUGUST 6, 2012**

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The regular meeting of the Bowling Green City Council, held in the Council Chamber, 304 North Church Street, Bowling Green, Ohio was called to order at 7:00 p.m. by Council President Zanfardino. The meeting began with the Pledge of Allegiance.

On roll call, Council Members Aspacher, Gordon, Jeffers, McOmber, Robinette, Rowland and Zanfardino responded. Also present were Mayor Richard Edwards, Municipal Administrator John Fawcett, City Attorney Michael Marsh, Parks and Recreation Director Michelle Grigore, Public Works Director Brian Craft, Utilities Director Brian O'Connell, and Acting Planning Director Ken Taylor.

Council President Zanfardino declared the minutes of the meeting held July 16, 2012 approved as distributed.

### CORRESPONDENCE

Clerk noted that a listing of budget transfers for the month of August was received from Finance Director Brian Bushong and distributed to Council prior to the meeting for approval. Council Member McOmber moved, Aspacher seconded, to approve the transfers as presented. On unanimous voice vote, Council President Zanfardino declared motion carried. A copy of the transfers is attached and made a part of these minutes.

Mayor Dick Edwards reported that the Administration will have the honor of hosting a delegation of local government officials from Western Ukraine this Wednesday in the Council Chamber. Mayor Edwards noted that this group is visiting as part of the Great Lakes Consortium.

Mayor Edwards asked Council Members to mark their calendars for the annual BGSU new faculty reception that will be held at the Clazel on Thursday, August 23, from 5 to 7 p.m. Mayor Edwards encouraged Council Members to attend.

Mayor Edwards discussed the invaluable services of Wood Lane and the Wood County Board of Developmental Disabilities and reminded Council that Wood Lane received the "I Love Bowling Green" award at the recently held semi-annual meeting of the Chamber of Commerce. Mayor Edwards introduced Andrew Bullerjahn to City Council and called upon Council Member Rowland to talk about the award Andrew recently received.

Council Member Rowland reported that Andrew recently received the state's Personal Achievement Award and went on to be nominated for the National Personal Award. While Andrew did not receive the national award, it was an extreme honor for him to be nominated. Andrew came forward with his family and was acknowledged by City Council.

Municipal Administrator John Fawcett reported that the City's fire protection services were recently evaluated and received a Class 2 Public Protection Classification which puts it in the top 1.4% in the country. Fawcett noted that this rating affects how insurance premium rates are calculated.

Fawcett noted that August 17 is move-in day for the BGSU students and reported that Mercer Road will be closed all day to accommodate those moving into residence halls.

Council Member McOmber inquired regarding the role the City plays if any in the decision by the University to demolish the Pop Culture Building.

Fawcett responded that the University has applied for a demolition permit. The City's role in the demolition permit process is to be sure that all of the utilities have been shut off and/or removed prior to the building being razed. Once the City is assured that all of that has been done, then the permit is granted. Fawcett stated that the permit process does not give the City authority to deny the permit simply because the City does

not like what is being done. Fawcett went on to say that regarding the zoning of the property that it has been tested in the courts and found that as a state agency the University does not have to comply with the local zoning requirements. Thus they are not required to apply for a rezoning change with the City in order to use the property for whatever the intended use might be.

Acting Planning Director Ken Taylor reported that the Planning Commission's sub-committee met last week to begin discussions regarding backyard chickens. Taylor noted that approximately 35 people were in attendance. The next meeting is scheduled for Tuesday, August 7, at 4:00 p.m. in the Council Chamber.

Parks and Recreation Director Michelle Grigore reported that the last day that the City Pool will be open is Sunday, August 19, from 1-5 p.m. Grigore also reported that a final "Rock the Pool" event is scheduled for that evening from 6-8 p.m. Tickets for the event are on sale now.

City Attorney Michael Marsh had no report.

Utilities Director Brian O'Connell thanked Electric Division employees for their work in removing some de-energized overhead lines in the vicinity of I-75 to add to the aesthetic value of the area. O'Connell reported that a bid opening was held last week for a waterline replacement project for the area of N. Prospect/Dunbar/Ordway. The low bidder on the project was R. A. Bores Excavating at a cost of \$260,000.

Public Works Director Brian Craft updated Council on the North Main Street widening project. Craft also reported to Council that crosswalks were marked on West Wooster Street in the vicinity of the Stroh Center to encourage people to cross at marked crossings when attending an event at the center. Craft also informed Council that demolition work on the Central Administration building is set to begin tomorrow.

Council President Zanfardino read and presented a resolution to former Board of Public Utilities member Rick Schmidt honoring his long-time service on the Board.

### **NEW LEGISLATION**

The following new legislation was recommended by the Administration and presented to Council for introduction:

Council Member McOmber, for the Finance Committee, introduced a resolution transferring previously appropriated funds.

Council Member McOmber, for the Finance Committee, introduced an ordinance authorizing the Municipal Administrator to sell and/or otherwise dispose of a vehicle not needed for municipal purposes, and declaring an emergency.

Council Member Gordon, for the Transportation and Safety Committee, introduced an ordinance providing consent for Ohio Department of Transportation (ODOT) to resurface that portion of State Route 64 located within the corporation limits from just south of the Bowling Green north corporation line to State Route 582, and declaring an emergency.

Council Member Aspacher, for the Public Utilities Committee, introduced an ordinance authorizing the Utilities Director to execute an agreement with Com Net, Inc., to lease dark fiber optic cable.

### **COUNCIL COMMITTEE REPORTS**

Council Member Gordon noted that as reported in the *Sentinel Tribune* earlier this week, it is his intention to withdraw the distracted driving ordinance (Ordinance #8194). Gordon further noted that Council has been informed that it cannot simply withdraw the ordinance, but that it must be given its second and third reading and then make a motion to adopt it followed by a vote to vote it down.

**LOBBY VISITATIONS**

The following individuals addressed Council regarding the preservation of the BGSU Pop Culture House:

- Dan Shoemaker – Pop Culture faculty member
- Maxine Sychora – Pop Culture student
- Erin Holmburg – lifelong resident of BG & student
- Raymond Schuck – Pop Culture faculty member & BG resident
- Jack Santino – Pop Culture faculty member

These individuals asked Council to use their influence with the University to ask them to slow down the process and take time to explore other options rather than demolition. It was also suggested that the City consider adding historical preservation guidelines to the zoning code.

Several Council Members questioned City Attorney Michael Marsh and Municipal Administrator John Fawcett regarding the City's role in the demolition of the building. Fawcett indicated that BGSU applied for a demolition permit, which is nothing more than the City's way of making sure all of the utilities have been disconnected and removed from the structure prior to it being razed. He said that it is not a license to stop the demolition because the City does not like what is being done. Marsh said that the City does not currently have historical preservation laws on the books and that state law, which has been back by previous court cases, prohibits the City from having any input about how state property is used. Marsh indicated that BGSU is under no obligation to seek a zoning change to use the property to build the proposed health center if that's what they chose to do with the property.

Council Member McOmber suggested that Mayor Edwards could make a phone call to BGSU President Mary Ellen Mazey and use what influence he may have to seek a delay in the plans to demolish the building.

Bill Herald, 1030 Conneaut, commended Council for bringing forth possible legislation and being responsive to the input of citizens. It shows that the process works.

**READING OF LEGISLATION**

Clerk read Resolution #3510 transferring previously appropriated funds, for first reading.

Council Member McOmber moved, Aspacher seconded, to suspend the rules and give Resolution #3510 its second and third reading. On roll call vote, Council Members Gordon, Jeffers, McOmber, Robinette, Rowland, Zanfardino, and Aspacher voted yes. Council President Zanfardino declared motion carried, and rules suspended.

Clerk read Resolution #3510 for second and third reading by number and title only.

Council Member McOmber moved, Jeffers seconded, to adopt Resolution #3510. On roll call vote, Council Members Jeffers, McOmber, Robinette, Rowland, Zanfardino, Aspacher, and Gordon voted yes. Council President declared motion carried, and Resolution #3510 adopted.

Clerk read Ordinance #8197 providing consent for Ohio Department of Transportation (ODOT) to resurface that portion of State Route 64 located within the corporation limits from just south of the Bowling Green north corporation line to State Route 582, and declaring an emergency, for first reading.

Clerk read Ordinance #8198 authorizing the Municipal Administrator to sell and/or otherwise dispose of a vehicle not needed for municipal purposes, and declaring an emergency, for first reading.

Council Member McOmber moved, Aspacher seconded, to suspend the rules and give Ordinance #8198 its second and third reading. On roll call vote, Council Members McOmber, Robinette, Rowland, Zanfardino, Aspacher, Gordon, and Jeffers voted yes. Council President Zanfardino declared motion carried, and rules suspended.

Clerk read Ordinance #8198 for second and third reading by number and title only.

Council Member McOmber moved, Rowland seconded, to adopt the emergency clause for Ordinance #8198. On roll call vote, Council Members Robinette, Rowland, Zanfardino, Aspacher, Gordon, Jeffers, and McOmber voted yes. Council President Zanfardino declared motion carried, and the emergency clause adopted.

Council Member McOmber moved, Jeffers seconded, to adopt Ordinance #8198. On roll call vote, Council Members Rowland, Zanfardino, Aspacher, Gordon, Jeffers, McOmber, and Robinette voted yes. Council President Zanfardino declared motion carried, and Ordinance #8198 adopted.

Clerk read Ordinance #8199 authorizing the Utilities Director to execute an agreement with Com Net, Inc., to lease dark fiber optic cable, for first.

Clerk read Ordinance #8194 amending and adopting Section 73.60 of the Codified Ordinances of the City of Bowling Green, Ohio, regarding operator to give full time and attention to driving, for second reading.

Council Member Gordon moved, Rowland seconded, to suspend the rules and give Ordinance #8194 its third reading. On roll call vote, Council Members Zanfardino, Aspacher, Gordon, Jeffers, McOmber, Robinette, and Rowland voted yes. Council President Zanfardino declared motion carried, and rules suspended.

Clerk read Ordinance #8194 for third reading by number and title only.

Council Member Gordon moved, McOmber seconded, to adopt Ordinance #8194. Council President Zanfardino called for any discussion of the issue.

Council Member Robinette commented that he feels that the legislation is unnecessary and overly broad and supports its defeat.

Council Member McOmber read a prepared statement and a copy of that statement is attached and made a part of these minutes.

Council Member Gordon agreed with McOmber's comments and felt that everyone agreed that while the legislation was a good idea and an effort to reduce traffic accidents, that it perhaps was not the best way to go about getting the intended results.

Council President Zanfardino agreed with the comments of Council Members McOmber and Gordon, but given the response of constituents he has decided that voting it down is the best end result to this legislation.

Council Member McOmber commended Council Member Gordon for his efforts and his actions in bringing this issue forward.

Council Member Rowland concurred with statements of other Council Members.

On roll call vote, Council Members Aspacher, Gordon, Jeffers, McOmber, Robinette, Rowland, and Zanfardino voted no. Council President Zanfardino declared motion defeated, and Ordinance #8194 was not adopted.

Clerk read Ordinance #8195 authorizing the Utilities Director to advertise for bids and enter into a contract or contracts for the supplying of annual inventory requirements, underground and overhead lines insurance, and sale of scrap materials for calendar year 2013, for second reading.

Clerk read Ordinance #8196 authorizing the Utilities Director to advertise for bids and enter into a contract or contracts for the leasing of municipal property for agricultural purposes, for second reading.

Clerk read Resolution #3508 authorizing the filing of (a) proposal(s) and/or (an) application(s) with the Ohio Department of Transportation for grants through the U.S. Department of Transportation Federal Transit Administration (FTA), as authorized under Federal Transit Laws, as codified, 49 USC Section 5311 financial assistance for other than urbanized areas and funds available from the Ohio Public Transportation Grant Program, executing a contract/grant for the FY 2013 Ohio Elderly and Disabled Transit

Fare Assistance Program, and executing a contract with the Ohio Department of Transportation upon grant proposal and/or application acceptance, for third reading.

Council Member Zanfardino moved, Gordon seconded, to adopt Resolution #3508. On roll call vote, Council Members Gordon, Jeffers, McOmber, Robinette, Rowland, Zanfardino, and Aspacher voted yes. Council President Zanfardino declared motion carried, and Resolution #3508 adopted.

Clerk read Ordinance #8192 for cleaning of streets by special assessment, for third reading.

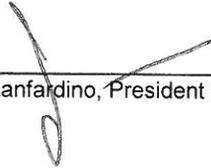
Council Member McOmber moved, Rowland seconded, to adopt Ordinance #8192. On roll call vote, Council Members Jeffers, McOmber, Robinette, Rowland, Zanfardino, Aspacher, and Gordon voted yes. Council President Zanfardino declared motion carried, and Ordinance #8192 adopted.

Council Member Rowland moved, Gordon seconded, to adjourn. On unanimous voice vote, Council President Zanfardino adjourned the August 6, 2012 regular meeting of the City Council at 8:35 p.m., subject to call.



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Kay D. Scherrek, Clerk of Council



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John Zanfardino, President of Council



August 6, 2012

TO: Bowling Green City Council

FROM: Brian Bushong, Finance Director

Transfers requested for the month of August include:

Fund	Dept.	Account	Description	From	To
2024	545	92200	Community Development, CDBG Block Grant, Transfer To Special Revenue	\$ 4,500.00	
2021	000	69420	ODOT Transportation Grant (Taxi), Revenue, Transfer From Special Revenue		\$ 4,500.00
1010	190	92200	General, Miscellaneous, Transfer To Special Revenue	\$ 11,888.97	
2021	000	69410	ODOT Transportation Grant (Taxi), Revenue, Transfer From General		\$ 11,888.97
1010	190	92400	General, Miscellaneous, Transfer To Capital Projects	\$ 3,400.00	
4030	000	69410	Green Space Acquisition Fund, Revenue, Transfer From General		\$ 3,400.00
1010	190	92200	General, Miscellaneous, Transfer To Special Revenue	\$ 4,166.66	
2007	000	69410	Payroll Stabilization, Revenue, Transfer From General		\$ 4,166.66
2016	710	92100	Park, Playground and Recreation, Recreation Department, Transfer To General	\$ 4,829.17	
1010	000	69420	General, Revenue, Transfer From Special Revenue		\$ 4,829.17
2078	170	92300	Municipal Court Special Projects, Municipal Court, Transfer To Debt Service	\$ 7,500.00	
3025	000	69420	Debt Service, Revenue, Transfer From Special Revenue		\$ 7,500.00
4018	810	92400	Capital Improvement, Capital Improvement, Transfer To Capital Projects	\$ 8,333.33	
4005	000	69440	Equipment Capital Reserve, Revenue, Transfer From Capital Projects		\$ 8,333.33
4018	810	92300	Capital Improvement, Capital Improvement, Transfer To Debt Service	\$ 26,179.16	
3025	000	69440	Debt Service, Revenue, Transfer From Capital Projects		\$ 26,179.16
4029	423	92300	Street Repair, Street Repair, Transfer To Debt Service	\$ 13,917.75	

3025	000	69440	Debt Service, Revenue, Transfer From Capital Projects		\$ 13,917.75
4052	810	92300	Community Center, Capital Improvement, Transfer To Debt Service	\$ 23,014.58	
3025	000	69440	Debt Service, Revenue, Transfer From Capital Projects		\$ 23,014.58
5111	651	92500	Electric Revenue, Administrative and General, Transfer To Enterprise	\$ 208,256.50	
5112	000	69450	Electric Capital Reserve, Revenue, Transfer From Enterprise		\$ 208,256.50
5221	651	92500	Water Revenue, Administrative and General, Transfer To Enterprise	\$ 33,216.67	
5222	000	69450	Water Capital Reserve, Revenue, Transfer From Enterprise		\$ 33,216.67
5331	651	92500	Sewer Revenue, Administrative and General, Transfer To Enterprise	\$ 16,258.33	
5332	000	69450	Sewer Capital Reserve, Revenue, Transfer From Enterprise		\$ 16,258.33
<b>Total</b>				\$ 349,072.15	\$ 349,072.15

*one* I would like to make a few comments. As I presume everyone else on Council is about to do, I plan to vote "no" on the proposed ordinance. But it seems to me that there ~~are~~ *is* ~~basically two reasons~~ *make them* why one might vote "no", and I would like to clarify my position a bit.

Judging from the comments of a couple of the citizens who spoke at earlier lobby visitations, Mr. Johnson and Mr. Eberly in particular, I presume that they believe that government has a very, very limited role in trying to prevent traffic accidents from occurring. I am not voting "no" because these individuals convinced me that their position was the correct one.

The reason I choose to vote "no" is because I simply came to the conclusion that the proposed ordinance was not going to be effective in preventing accidents before they occur. However, I continue to believe that government, whether it be federal, state or local government, has a significant role to play in attempting to reduce traffic accidents, injuries and deaths.

I will say that had the State of Ohio not passed a texting ban, I would have in all likelihood voted for a local ordinance to that effect. And I, like Governor Kasich, wish that the State's ban had made a violation a primary offense rather than secondary. I see texting and driving to be virtually identical to driving while highly intoxicated. You can argue that a texting ban is difficult to enforce or that someone might cause an accident because they are trying to hide the fact that they are texting and driving, but the fact that texting drivers exhibit the same level of driving skill as highly intoxicated drivers is well established.

I admit to not having a great deal of tolerance for drunk drivers or others who drive like drunk drivers. Driving is a privilege, not a right. Irresponsible drivers cause harm not only to themselves, but to innocent people who happen to occupy the roadways at the same time. I believe that when someone is driving a vehicle, their only real priority should be driving that vehicle safely.

All that said, I do not anticipate that this Council will need to vote on or consider any similar legislation in the future. I initially had hopes that this ordinance would be utilized to get a small number of irresponsible drivers off the road before they cause an accident. But having concluded that the ordinance would not be effective in this manner, there is no reason to enact it.