

RECORD OF PROCEEDINGS

Minutes of

CITY OF BOWLING GREEN CITY COUNCIL

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

TUESDAY, SEPTEMBER 6, 2016

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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 7:05 p.m. by Council President Aspacher. The meeting began with the Pledge of Allegiance.

On roll call, Council Members Aspacher, Gordon, Jeffers, Rowland, Seelger, and Zanfardino responded. Council Member McOmber was not present. Also present were Mayor Richard Edwards, Municipal Administrator Lori Tretter, City Attorney Michael Marsh, Public Works Director Brian Craft, Utilities Director Brian O'Connell, Planning Director Heather Saylor, and Parks and Recreation Director Kristin Otley.

Council Member Rowland moved, Zanfardino seconded, to approve the minutes of the regular meeting held August 15, 2016 as distributed. Council President Aspacher declared motion carried.

CORRESPONDENCE

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

Clerk noted for the record that copies of the Budget Summary Report for the month of August 2016 was distributed to Council prior to this evening's meeting.

OFFICIAL REPORTS

Mayor Dick Edwards presented the Bicycle Spokesperson of the Year award to Bob Midden as a dedicated bicyclist who takes bicycle safety very seriously.

Mayor Edwards also recognized Police Officer Robin Short who was recently named a Hometown Hero by Modern Woodmen. Mayor Edwards noted that Officer Short serves as the DARE officer in schools, works with the Safety Town program, and coaches many youth summer sports with the City's Parks and Recreation Department.

Municipal Administrator Lori Tretter reviewed street and parking lot closures for the Black Swamp Arts Festival which will be held in the downtown area of Bowling Green this coming weekend. Tretter also requested an Executive Session of City Council at the end of this evening's meeting to discuss a real estate matter.

Tretter asked Police Chief Tony Hetrick to talk about an upcoming meeting that the Wood County Prevention Coalition will be holding on September 16, at 8:30 a.m. Chief Hetrick indicated that the meeting will be held at the Wood County Educational Services Center and the topic discussed will be raising Ohio's legal minimum age for tobacco to 21 years of age.

Planning Director Heather Saylor reported that the issuance of zoning permits is relatively the same as last year with 275 thus far in 2016 versus 270 in 2015. Saylor also noted that there have been 5 more single family housing starts than at this point last year. Saylor thanked citizens who attended the first community meeting last week regarding the Community Action Plan (also known as the Neighborhood Revitalization Plan). Saylor noted that the next meeting is scheduled for Tuesday, October 11 at 6:30 p.m. at a to be determined location.

Parks and Recreation Director Kristin Otley reported that the pool is now closed for the season. She also noted that presentations on the upcoming levy on the ballot have begun and distributed an informational flyer that is being used to educate the community.

City Attorney Michael Marsh offered to answer questions regarding the legislation requesting a moratorium on medical marijuana. Marsh noted that he has been watching the state legislature regarding this matter and waiting for them to come out with some rules and regulations on how this was going to be administered and there still hasn't been anything brought forward at this time. Marsh explained that in the absence of any guidance from the state, he felt that Bowling Green should do as other cities have done and take advantage of a provision that allows municipalities to enact a moratorium for a period of time. Marsh noted that he does not expect that the City's staff would devise rules and regulations of how this law should be administered because he feels that is for the state to determine. However, the moratorium gives the City a chance to look at the zoning code for where businesses like this might be located in the future. Marsh indicated that the state law goes into effect on Thursday, September 8, so he decided late last week that rather than allowing the law to go into effect without any regulation, that he would prepare legislation imposing a temporary moratorium for 12 months to allow time to get regulations in place. Marsh explained that Council would have to suspend the rules and give the resolution all three readings tonight and that it would take all six votes of the members present in order to accomplish that. Marsh took responsibility for the delay in getting the resolution to Council explaining that he had hoped that by the time the law took effect, that the state would have had the rules and regulations in place.

Council Member Rowland stated that she knows that the City Attorney is not responsible for drafting the state law and explained that she lost her brother a week ago to a disease where medical marijuana could perhaps have been used to treat him. She indicated that when she received this legislation, she felt hurt, even though she does not support the use of marijuana for the public. She asked if people living in the state of Ohio who are in need of this treatment now have any remedy available to them since the state has not come up with how it the law will be administered. Marsh responded that not every municipality in the state will have a moratorium, but has no idea how it would be administered. Rowland indicated that she wanted to be clear that she supports the resolution, she was just hurt to think that there are people suffering that won't be able to get the help that they need.

Council Member Jeffers asked the City Attorney that if someone starts a dispensary and then the regulations come after they have started business, then that business would have to comply with the regulations even though they started the business beforehand. Marsh said that he thought that would be true, but the trouble is that until that time there wouldn't be any rules in place to govern how they did business. Marsh stated that there are no rules now and he knows that that is stunning and makes no sense, but there are no rules in place for this law to be administered. Marsh noted that he has never experienced something like this before. Jeffers stated that he will feel really bad if Council sets some impediments to people needing to get medical marijuana. He indicated that he does not want to put a hardship on people who can benefit from it. Marsh said that the resolution calls for a 12-month moratorium, but if the state comes up with its rules and regulations sooner, there is no reason that Council can't go back and discontinue the moratorium.

Council President Aspacher asked the City Attorney what would happen if someone came into the Planning Department on Thursday and filed an application to open a dispensary. Marsh responded that assuming the location was zoned for a retail operation, there would be no basis for denying the permit. Marsh noted that the City currently does not allow a business to sell pharmaceuticals, cigarettes, beer, or anything of that kind without being licensed and without being regulated. This is calling for a new, altering substance to be available at retail, which means anyone can walk in and buy it without regulation even though the law provided there would be regulation. It just has been developed yet. Marsh noted that currently there isn't anything to say that someone needs a medical marijuana card to obtain the substance, or who would be eligible to have the marijuana, though the law does specify that it be for medical use. There isn't anything in place to guard against the quality of the substance or that it's safe. Marsh stated that he doesn't have any problem with the intent of the law, but feels that it is irresponsible to allow it to be a free for all without regulations in place to control the safety of the product and how it's distributed.

Council Member Gordon stated that he shared Council Member Jeffers's concerns of burdening those who need medical marijuana for their conditions. He indicated that the human cost of burdening people who need this to go to another community to get it is too much in his estimation. He also stated that at issue for him was that he isn't convinced that the moratorium is a good idea and even if he was, he

was uncomfortable passing the resolution tonight since Council just received it for review on Friday. He said that he'd like to have the opportunity to ask the community to see of this moratorium is something they want.

Utilities Director Brian O'Connell had no report.

Public Works Director Brian Craft updated Council on current Public Works roadway projects and noted that heavy item pickup will be done the week of September 12 and brush pickup will be done the week of September 26.

NEW LEGISLATION

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

Council Member Jeffers, for the Planning, Zoning and Economic Development Committee, introduced an ordinance amending and adopting Section 12.02 of the Codified Ordinances of the City of Bowling Green, Ohio, regarding bench mark; grade datum.

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

Council Member Aspacher, for the Finance Committee, introduced an ordinance providing supplemental appropriations for the current expenses and other expenditures of the City of Bowling Green, Ohio, during the fiscal year beginning January 1, 2016 and ending December 31, 2016.

Council Member Aspacher, for the Committee-of-the-Whole, introduced a resolution declaring the City-owned real estate generally known as 215 West Wooster Street as open public space.

Council Member Aspacher, for the Committee-of-the-Whole, introduced a resolution imposing a temporary moratorium on medical marijuana cultivation, processing, and retail dispensary facilities within the City of Bowling Green, Ohio.

Council Member Zanfardino, for the Transportation & Safety Committee, introduced a resolution adopting and authorizing an amended B.G. Transit Drug and Alcohol Testing Policy.

Council Member Zanfardino, for the Transportation & Safety Committee, introduced an ordinance amending and adopting Section 76.28(D) of the Codified Ordinances of the City of Bowling Green, Ohio, regarding parking prohibitions.

COUNCIL COMMITTEE REPORTS

Council Member Zanfardino reported that the Transportation & Safety Committee met earlier this evening to continue discussions regarding complete streets. He noted that it was determined that the City would proceed with incorporating the complete streets concept into two upcoming roadway projects, Conneaut & Fairview Avenues. Zanfardino scheduled another meeting of the Transportation & Safety Committee for Monday, October 3, at 6:00 p.m. in the Council Chamber.

Council Member Gordon noted that there is a possibility that Court Street could be added and asked to see an estimate of how much those improvements would cost.

LOBBY VISITATIONS

Rick Busselle, 877 Country Club Drive, expressed disappointment that the City has not planned for bicycle accommodations on roadways sooner so that it wouldn't be costing the City additional funding that was not part of the original funding request.

William Herald, 1030 Conneaut, suggested to City Council that if there were some Council Members that weren't comfortable with the 12-month moratorium on medical marijuana, that they amend the ordinance to shorten the time period in order to gain the necessary six votes.

Frances Brent, 162 Summerfield, indicated that she found the proposed moratorium troubling and asked Council not to rush into enacting legislation at this time.

READING OF LEGISLATION

Clerk read Resolution #3637 transferring previously appropriated funds, for first reading.

Council President Aspacher moved, Rowland seconded, to suspend the rules and give Resolution #3637 its second and third reading. On roll call vote, Council Members Gordon, Jeffers, McOmber, Rowland, Seeliger, Zanfardino, and Aspacher voted yes. Council President Aspacher declared motion carried, and rules suspended.

Clerk read Resolution #3637 for second and third reading by number and title only.

Council Member Aspacher moved, Zanfardino seconded, to adopt Resolution #3637. On roll call vote, Council Members Jeffers, McOmber, Rowland, Seeliger, Zanfardino, Aspacher, and Gordon voted yes. Council President Aspacher declared motion carried, and Resolution #3637 adopted.

Clerk read Resolution #3638 adopting and authorizing an amended B.G. Transit Drug and Alcohol Testing Policy, for first reading.

Clerk read Resolution #3639 declaring the City-owned real estate generally known as 215 West Wooster Street as open public space, for first reading.

Clerk read Resolution #3640 imposing a temporary moratorium on medical marijuana cultivation, processing, and retail dispensary facilities within the City of Bowling Green, Ohio, for first reading.

Council Member Jeffers clarified with City Attorney Michael Marsh that if the moratorium is not enacted tonight, that someone could walk into the Planning Department and obtain a zoning permit on Thursday to operate a business. Marsh indicated that if the location is zoned for retail operations, then the zoning permit would be issued on the spot. Jeffers indicated that he was trying to mediate between the Administration and Council Member Gordon, but the City Attorney indicated that no mediation was necessary that everyone is basically saying the same thing with the difference being that Gordon is concerned about the customer and their right to acquire medical marijuana. Marsh stated that the concern of the Administration is how easy it would be for people to receive an altered substance because there are no regulations and potentially leave the City open for liability if someone were harmed in the interim because the City issued a zoning certificate to open a business. Marsh further stated that there isn't any mechanism in place for the City to protect people.

Gordon stated that ultimately this is a question of policy trade-offs as he is speaking of people who need this treatment and cannot have access to it because of a moratorium and to him that is a bigger moral concern and the other is more a legal concern which makes it somewhat lesser in his moral calculus. Marsh said that that is his call, he was just making Council aware of what could happen.

Council Member Seeliger stated that Gordon doesn't want to rush through and enact a moratorium, but he feels that he doesn't want to rush through and put something in place that has no regulation. He indicated that he feels there is a responsibility for Council to due diligence on this issue. While he is sympathetic to those who could use medical marijuana, but at the same time we don't have the answers. He said it's not about whether or not this is a good law or not, but is the City ready to handle it the right way and he's not sure we are. He feels a responsibility to due diligence on this, indicating that perhaps 12-months is too long, but feels there should be time given to get it right.

Council Member Zanfardino called the situation "bizarre" but indicated that 12-months seemed very prohibitive and he'd consider voting for a shorter period of time.

Council Member Jeffers moved, Seeliger seconded, to amend Resolution #3640 to a two-month moratorium rather than 12-months.

Council Member Gordon indicated that he would vote in favor of this piece of the process because he thinks it lessens the burden on people who need it. Council Member Rowland indicated that two months is still a long time when you are in need of this medicine, however, she supports the regulation of it.

Council President Aspacher stated that his feeling on this regardless of what the timeline is that it's important that Council tries to put aside some of the emotion that is being felt and consider the responsibility as elected officials to do their part to put processes in place that are going to provide public protection and public safety. Aspacher indicated that he is in favor of the moratorium and is flexible on the length and thinks that two months seems relatively quick from his perspective to have the Administration get through a thorough review. Aspacher reminded Council that the City applies zoning restrictions to tattoo business, dance establishments, bars and grocery stores and thinks it would be irresponsible not to the same with medical marijuana. Council Member Gordon responded that he respects Aspacher's position, but feels the greater error would be to deny the drug to people in need.

On roll call vote, Council Members Rowland, Seeliger, Zanfardino, Aspacher, Gordon, and Jeffers voted yes.

Council Member Aspacher moved, Jeffers seconded, to suspend the rules and give Resolution #3640 its second and third reading. On roll call vote, Council Members Seeliger, Zanfardino, Aspacher, Jeffers, and Rowland voted yes. Council Member Gordon voted no. Council President Aspacher declared motion defeated.

Clerk read Ordinance #8530 providing supplemental appropriations for the current expenses and other expenditures of the City of Bowling Green, Ohio, during the fiscal year beginning January 1, 2016 and ending December 31, 2016, for first reading.

Council Member Aspacher moved, Zanfardino seconded, to suspend the rules and give Ordinance #8530 its second and third reading. On roll call vote, Council Members Zanfardino, Aspacher, Gordon, Jeffers, ~~McOmber~~, Rowland, and Seeliger voted yes. Council President Aspacher declared motion carried, and rules suspended.

Clerk read Ordinance #8530 for second and third reading by number and title only.

Clerk read Ordinance #8531 amending and adopting Section 12.02 of the Codified Ordinances of the City of Bowling Green, Ohio, regarding bench mark; grade datum, for first reading.

Clerk read Ordinance #8532 amending and adopting Section 76.28(D) of the Codified Ordinances of the City of Bowling Green, Ohio, regarding parking prohibitions, for first reading.

Clerk read Ordinance #8595 amending and adopting Section 33.07(A) of the Codified Ordinances of the City of Bowling Green, Ohio, regarding pre-employment medical examination and drug screening, for third reading.

Council Member Aspacher moved, Jeffers seconded, to adopt Ordinance #8595. On roll call vote, Council Members Gordon, Jeffers, ~~McOmber~~, Rowland, Seeliger, Zanfardino, and Aspacher voted yes. Council President Aspacher declared motion carried, and Ordinance #8595 adopted.

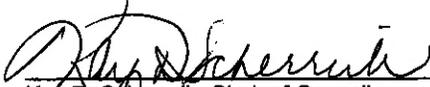
Council Member Jeffers moved, Rowland seconded, to adopt Ordinance #8593 amending and adopting Sections 150.40 and 150.103 of the Codified Ordinances of the City of Bowling Green, Ohio, regarding the zoning code. On roll call vote, Council Members Jeffers, ~~McOmber~~, Rowland, Seeliger, Zanfardino, Aspacher, and Gordon voted yes. Council President Aspacher declared motion carried, and Ordinance #8593 adopted.

Council Member Rowland moved, Jeffers seconded, to excuse Council Member McOmber from this evening's meeting. On unanimous voice vote, Council President Aspacher declared motion carried.

Council Member Jeffers moved, Rowland seconded, to move Council into Executive Session for the purpose of discussing a real estate matter at 8:25 p.m. On unanimous voice vote, Council President Aspacher declared motion carried.

Council Member Rowland moved, Zanfardino seconded, to move Council out of Executive Session at 8:52 p.m. On unanimous voice vote, Council President Aspacher declared motion carried.

Council Member Zanfardino moved, Seeliger seconded, to adjourn. On unanimous voice vote, Council President Aspacher adjourned the September 6, 2016 regular meeting of the City Council at 9:53 p.m., subject to call.



Kay D. Scherrek, Clerk of Council



Michael Aspacher, President of Council



September 6, 2016

TO: Bowling Green City Council
 FROM: Brian Bushong, Finance Director

Transfers requested for the month of September include:

Fund	Dept.	Account	Description	From	To
1010	190	92200	General, Miscellaneous, Transfer To Special Revenue	\$ 4,734.58	
2021	000	69410	ODOT Transportation Grant (Taxi), Revenue, Transfer From General		\$ 4,734.58
1010	190	92300	General, Miscellaneous, Transfer To Debt Service	\$ 16,841.67	
3025	000	69410	Debt Service, Revenue, Transfer From General		\$ 16,841.67
1010	190	92400	General, Miscellaneous, Transfer To Capital Projects	\$ 3,088.33	
4030	000	69410	Green Space Acquisition Fund, Revenue, Transfer From General		\$ 3,088.33
2078	170	92300	Municipal Court Special Projects, Municipal Court, Transfer To Debt Service	\$ 6,833.33	
3025	000	69420	Debt Service, Revenue, Transfer From Special Revenue		\$ 6,833.33
4005	810	92400	Equipment Capital Reserve, Capital Improvement, Transfer To Capital Projects	\$ 13,127.08	
4018	000	69440	Capital Improvement, Revenue, Transfer From Capital Projects		\$ 13,127.08
4018	810	92300	Capital Improvement, Capital Improvement, Transfer To Debt Service	\$ 41,086.50	
3025	000	69440	Debt Service, Revenue, Transfer From Capital Projects		\$ 41,086.50
4018	810	92400	Capital Improvement, Capital Improvement, Transfer To Capital Projects	\$ 2,083.33	
4005	000	69440	Equipment Capital Reserve, Revenue, Transfer From Capital Projects		\$ 2,083.33
4018	810	92400	Capital Improvement, Capital Improvement, Transfer To Capital Projects	\$ 2,083.33	
4010	000	69440	Facility Capital Reserve, Revenue, Transfer From Capital Projects		\$ 2,083.33
4029	423	92300	Street Repair, Street Repair, Transfer To Debt Service	\$ 16,329.17	

3025	000	69440	Debt Service, Revenue, Transfer From Capital Projects		\$ 16,329.17
4055	710	92300	Aquatic Facility Capital Improvement, Recreation Department, Transfer To Debt Service	\$ 23,072.25	
3025	000	69440	Debt Service, Revenue, Transfer From Capital Projects		\$ 23,072.25
2016	710	92300	Park, Playground and Recreation, Recreation Department, Transfer To Debt Service	\$ 33,000.00	
3025	000	69420	Debt Service, Revenue, Transfer From Special Revenue		\$ 33,000.00
1010	190	92300	General, Miscellaneous, Transfer To Debt Service	\$ 267,000.00	
3025	000	69410	Debt Service, Revenue, Transfer From General		\$ 267,000.00
5111	651	92500	Electric Revenue, Administrative and General, Transfer To Enterprise	\$ 107,875.00	
5112	000	69450	Electric Capital Reserve, Revenue, Transfer From Enterprise		\$ 107,875.00
5221	651	92500	Water Revenue, Administrative and General, Transfer To Enterprise	\$ 46,472.00	
5222	000	69450	Water Capital Reserve, Revenue, Transfer From Enterprise		\$ 46,472.00
5331	651	92500	Sewer Revenue, Administrative and General, Transfer To Enterprise	\$ 11,305.33	
5332	000	69450	Sewer Capital Reserve, Revenue, Transfer From Enterprise		\$ 11,305.33
Total				\$ 594,931.90	\$ 594,931.90