

MUNICIPALITY OF GERMANTOWN COUNCIL

MONDAY, AUGUST 15, 11

The Municipality of Germantown Council met in regular session on August 15, 2011 at 7:00 p.m. in the Municipal Building Council Chambers.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited.

MEMBERS PRESENT:

The following members were present at the Call to Order: Mayor Theodore Landis, Mr. Terry Johnson, Mr. Lynn Koogle, Mr. Michael Kuhn, Mr. Edward Schwaberow and Mr. Brian Wafzig.

MEMBERS ABSENT:

Mr. Steve Boeder was absent.

ALSO PRESENT:

Also present were Anna M. Sizemore, Municipal Manager; Tom Schiff, Law Director; Dan Alldred, Fire Chief; Roy McGill, Chief of Police; Matt Burns, Police Major; Scott Brown, Police Sergeant; Ben DeGroat, Township Trustee; Randy Benson, Township Trustee; Bob Rohrbach, Township Fiscal Officer; Kelli Novak, Clerk of Council and several visitors.

MEETING WITH TOWNSHIP TRUSTEES:

BUSINESS:

North Well Fields

The Council and the Township Trustees discussed the North Well Field. It was decided that the Township and the City would work together to clean the North Well Field site.

Mr. Benson suggested that volunteers help with the clean up.

Mrs. Sizemore stated that if anyone is to volunteer they will need to sign a waiver with the City.

Mr. Johnson stated he would speak with the Park Board regarding the cleanup of the North Well Field.

The Township would like to see an agreement between the Township and the City stating that it will not get in the state that it is in now. This agreement would prohibit both the Township and the City to allow any dumping at the North Well Field site. The City Law Director will look into drawing up a contract between the City and the Township.

A brief discussion took place regarding the pool levy. It was determined that the pool levy would be put on the ballot in the spring.

All agreed that the next joint meeting would be held at the Township Building on November 14th.

APPROVAL OF MINUTES:

Mayor and Council reviewed the August 1, 2011 Council Meeting/Work Session minutes.

Mrs. Novak stated on page 7 under Executive Session should read Lynette Dinkler, Legal "Counsel" not "Council".

MOTION: Mr. Johnson moved to accept the August 1, 2011 Council Meeting/Work Session minutes as amended.

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ROLL CALL: Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mayor Landis, yes. 6-yes, 0-no. MOTION CARRIED.

PUBLIC RECOGNITION:

None.

CITIZEN'S FORUM:

None.

MANAGER'S REPORT:

Mrs. Sizemore stated that Germantown Police Operation C.A.R.E. Picnic has received two donations and Council needs to accept these donations of \$100.00, and a gift card for \$150.00.

MOTION: Mr. Schwaberow moved to accept the donations to the Operation C.A.R.E Picnic.

ROLL CALL: Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Johnson, yes; Mayor Landis, yes. 6-yes, 0-no. MOTION CARRIED.

Mrs. Sizemore reviewed her report.

CLERK'S REPORT:

None.

LAW DIRECTOR'S REPORT:

None.

POLICE CHIEF'S REPORT:

Chief McGill handed out the July Police report.

FIRE CHIEF'S REPORT:

Chief Alldred reviewed the July Fire/EMS report.

MAYOR'S REPORT:

He announced that the next Council meeting would be September 6, 2011 due to the holiday.

He read a thank you from the Michigan and Ontario Chapter of the Ford Retractable Club for the event that the City hosted last month.

COUNCIL MEMBER'S REPORT:

Mr. Johnson's Report:

He announced that the Pool Board would be meeting on Wednesday.

He thanked everyone involved with the Ford Retractable event in the park.
He went on by thanking everyone involved with National Night Out.

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He also thanked Thomas Howard for holding a free baseball clinic for the local children. McDonald's furnished food for all the children who attended the clinic. Thomas Howard took the time to sign any items the children wanted autographed and he would like to become more involved with the community. This event was such a success that we are thinking of doing it again next year and having two clinics.

Mr. Koogle's Report:

He announced that the Economic Development Committee meeting will be Wednesday.

On August 17th there will be a group of men who will meet on the track at Barker Field to have a prayer for all the coaches, athletes and everyone who attends the games.

Mr. Kuhn's Report:

He reminded everyone that Saturday Night Out will be Saturday August 20th. Jeeps and 4x4's will be featured and the band Reload will be performing.

He thanked Chief Alldred and Chief McGill for hosting National Night Out.

He went on by thanking Thomas Howard for the baseball clinic. He heard it was a great success.

Mr. Schwaberow's Report:

He announced that last Saturday he became a grandfather for the fifth time.

Mr. Wafzig's Report:

He announced that he will be attending the MVCC meeting on August 24th.

He questioned if the light pole that had been hit on Tara Court had been taken of.

Mrs. Sizemore replied that she has been told that DP&L is waiting on parts to fix the pole. Hopefully it will be done by the beginning of next week.

Legislation:

Introduction:

EMERGENCY RESOLUTION NO. 11-31

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO SIGN A GRANT APPLICATION SUBMITTED TO THE OHIO PUBLIC WORKS COMMISSION FOR THE CHERRY STREET IMPROVEMENT PROJECT PHASE 3, AND DECLARING AN EMERGENCY.

MOTION: Mr. Koogle moved to suspend the rules on Emergency Resolution No. 11-31.

ROLL CALL: Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mayor Landis, yes. 6-yes, 0-no. MOTION CARRIED.

Mayor Landis opened the Public Hearing, Mayor and Council were not addressed. The Public Hearing was then closed.

MOTION: Mr. Wafzig moved to adopt Emergency Resolution No. 11-31.

Mr. Schwaberow stated that he would like to see the grant application and the amount for the project.

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Mrs. Sizemore replied that she has not received the final grant application. The application requires that there is a resolution that authorizes the application.

Mr. Schwaberow requested that a copy of the exact dollar amount be given to Council as soon as it is available.

Mrs. Sizemore replied that she would provide Council a copy of both the grant application as soon as they are available.

ROLL CALL: Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mayor Landis, yes. 6-yes, 0-no. MOTION CARRIED.

EMERGENCY RESOLUTION NO. 11-32

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO SIGN A GRANT APPLICATION SUBMITTED TO THE OHIO PUBLIC WORKS COMMISSION FOR THE SANITARY SEWER REHABILITATION PROJECT PHASE 1, AND DECLARING AN EMERGENCY.

MOTION: Mr. Koogle moved to suspend the rules on Emergency Resolution No. 11-32.

ROLL CALL: Mr. Wafzig, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mayor Landis, yes. 6-yes, 0-no. MOTION CARRIED.

Mayor Landis opened the Public Hearing.

Scott Johnson, 74 Willis Way, questioned what portion of the sanitary sewer system will Phase 1 cover.

Mrs. Sizemore replied that Phase 1 will be relining and redoing manholes. The project will start in the Hillcrest area. The project that will redo the Market Street hill is a completely different project and is not related to this Phase 1 project at all. We will apply for grants yearly to keep this project on going. This is just a start to a project that will take years to complete.

Mayor Landis closed the Public Hearing.

MOTION: Mr. Schwaberow moved to adopt Emergency Resolution No. 11-32.

ROLL CALL: Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mayor Landis, yes. 6-yes, 0-no. MOTION CARRIED.

RESOLUTION NO. 11-33

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO ENTER INTO AN AGREEMENT BY AND AMONG THE MIAMI VALLEY COMMUNICATIONS COUNCIL AND THE CITIES OF CENTERVILLE, GERMANTOWN, KETTERING, MIAMISBURG, MORaine, OAKWOOD, SPRINGBORO AND WEST CARROLLTON FOR THE OPERATION OF A TACTICAL CRIME SUPPRESSION UNIT.

Mayor Landis stated the Public Hearing would be September 6, 2011.

Public Hearing:

ORDINANCE NO. 11-26

AN ORDINANCE TO REZONE PROPERTY OWNED BY THOMAS AND ELIZABETH BALL, BEING PROPERTY ID NUMBER D13-001-01-0074 AND

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**LOCATED AT 203 N. MAIN STREET, FROM R-3, MULTI-FAMILY
RESIDENTIAL TO C-2 DOWNTOWN BUSINESS.**

Mayor Landis opened the Public Hearing.

Jean Howard, 203 N. Main Street, stated that she lives with her daughter and her husband, the applicants, and attended the last meeting. At that meeting they were totally unprepared for the objections of the neighbors. There were family problems that had her daughter upset at the last meeting and she has decided to not attend tonight's meeting. They lost their niece at the age of nineteen in June. With that said for anyone to think that they would put in a business that would make it dangerous for the neighborhood children, walking to the park is asinine. Beth is a Christian teacher in the Valley View School District and if you asked anyone, you would see what a love she has for children. Most of the objections have to do with extra parking and traffic. This would be a one room antique shop. She has worked in several of the local shops downtown and if you have two customers at the same time you are elated. This area does not get a great deal of traffic or business. She does not feel that this type of shop would create a danger to the children in the neighborhood. It would be more dangerous to have a car backing out of the carriage house and over the sidewalk, than to have a customer walking out of the carriage house and parking on the street. With that said she feels that Beth and Tom should have saved their \$100.00 application fee. It was told to them in the beginning that they did not have a snowballs chance in you know what of getting this changed. We wanted to open a small business with very limited hours, but we had not planned on all the objections and small minded people.

Thomas Ball, 203 N. Main Street, stated their home sits on the corner of Warren Street and Main Street and the carriage house is currently used as a garage and storage. We wanted something that would blend in with the neighborhood. His home is a shade over a half a block from the Downtown area. He did not attend the previous meeting but there were issues with parking. If this is really a problem he suggests that the Village cancel Saturday Night Outs, the Pretzel Festival, the Community Garage Sale and graduation parties because these cause more traffic than any antique shop here in the Village. He understood that there would be a line from his door to the IGA of people who would want to get into his shop. He will not mention all the other businesses that have grandfathered in. Other Cities handle it on a case by case basis and they grant a onetime permit to open a business and if the ownership changes the license would go away. He heard that one of the neighbors did not want a neon sign in front of his home and he would like to have a flat sign on the garage. Council can approve it or not, it does not matter to him. He and his wife both work and we do not need to live on this antique business. This is not a yearlong garage sale. We would be selling nice quality glassware and furniture. He will do what he wants to do anyway. We can either do this the right way or he will do it his way.

Karen McGhee, 229 N. Main Street, stated that she did not have a problem with the traffic. Her fear is once the rezoning starts, it will continue to move up the street. She has a perpetual garage sale across from her right now. She has tackiness beyond compare across the street. The Ball's would not be like the other neighbors, she knows that. If one person gets a permit, it would be hard to say no to the next person who would want a business permit. The neighbor across the street would be the next person wanting a business permit.

Julie McNamara, 275 N. Main Street, thanked Council for the opportunity to speak tonight. She would like to see the best land use in the neighborhood and this property would be a spot zone. Once it is rezoned it would be an intrusion and the rest of the block could be rezoned. This block is a huge block and goes all the way to Comstock. This would put the commercial area right across the street from the school. She has concerns of the spot zoning.

Mayor Landis closed the Public Hearing.

Mayor Landis stated the Planning Commission has rejected the Ball's request. This would constitute spot zoning and we do not do spot zoning. This has nothing to do with the individual. When he asked for a motion to adopt and stated if you want to override the Planning

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Commission's decision you will vote yes. If you are not in favor of this rezoning you will need to vote no.

Mr. Schwaberow stated he attended the Planning Commission meeting and he does not recall parking or noise to be a factor like the zoning itself. The closest C-2 Zoning faces Center Street and there is a half a block barrier between the Downtown businesses and the Ball's home. There are a number of uses that can be put into a C-2 zoned property. Once it is zoned C-2 any one of the uses can be located on the property. This is the main reason the Planning Commission decided to recommend to Council to deny this application.

Mr. Ball questioned Mayor Landis if he said that the Village does not do spot zoning.

Mayor Landis replied that he did say they do not do spot zoning.

Mr. Ball questioned why was his application and money accepted for something you do not do.

Mayor Landis stated that this is the legal process that you have the right to go through.

Mr. Ball stated that he feels that Mayor Landis is leaning the rest of Council when the Mayor said "We do not do spot zoning".

MOTION: Mr. Koogle motioned to adopt Ordinance No. 11-26.

Mr. Koogle stated that from day he heard about this request he thought no way. This is a residential area and he has been opposed since day one. He does not believe in spot zoning and it does not have anything to do with Mr. Ball. This is not personal; he just does not like spot zoning. It opens up a can of worms.

Mr. Kuhn stated that his family owns businesses downtown and he would be happy to see more businesses in the downtown area. He would love to have more antique shops in the Village. He wishes that someone could have explained to Mr. Ball about the spot zoning before his \$100.00 application fee was taken.

Mrs. Sizemore stated that it was explained to them.

Mr. Ball stated he was told there was a snowballs chance in hell he would get it rezoned.

Mrs. Sizemore stated that he was not told in those words.

Mr. Ball stated that Mrs. Sizemore was right. He was not told in those exact words. He was told that the Board does not like to do spot zoning but if you want to spend the \$100.00 application fee that would be up to him. He did not know it would be said so openly in a Council meeting that spot zoning is not done.

ROLL CALL: Mr. Koogle, no; Mr. Kuhn, no; Mr. Schwaberow, no; Mr. Wafzig, no; Mr. Johnson, no; Mayor Landis, no. 0-yes, 6-no. MOTION FAILED.

ORDINANCE NO. 11-30

AN ORDINANCE LEVYING SPECIAL ASSESSMENTS ON THE LOTS OF THE MUNICIPALITY OF GERMANTOWN TO PAY THE COST AND EXPENSES OF FURNISHING AND MAINTAINING A STREET LIGHTING SYSTEM FOR 2012 IN THE MUNICIPALITY OF GERMANTOWN.

Mayor Landis opened the Public Hearing, Mayor and Council were not addressed. The Public Hearing was then closed.

MOTION: Mr. Johnson motioned to adopt Ordinance No. 11-30.

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ROLL CALL: Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mayor Landis, yes. 6-yes, 0-no. MOTION CARRIED.

EXCUSE ABSENT MEMBERS:

Mr. Koogle motioned to excuse Mr. Boeder.

ROLL CALL: Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mayor Landis, yes. 6-yes, 0- no. MOTION CARRIED.

OTHER BUSINESS:

WORK SESSION:

Work Session began at 8:14 p.m.

Wetz Lane

Mr. Johnson stated that the residents want to lower the speed limit on Wetz Lane. After the Engineer looked into it there are other issues. The Engineer states that Wetz Lane is a private lane. There is a water/sewer easement but there is not a road easement.

Mr. Schwaberow stated that there was a lawsuit of some kind involving Wetz Lane.

Council discussed Wetz Lane and it was determined that the Law Director, the Manager and the City Engineer would look further into the situation.

Veterans Memorial Park Playground Committee

Mrs. Sizemore stated she attended the Veterans Memorial Park Playground Committee meeting. Nothing was mentioned at the meeting regarding the Veterans Memorial. Their main concern is to keep the City from expanding the Fire Department or the City Building into the park.

Mr. Johnson stated he attended the meeting too and that since he has been on Council and Parks Board, the Playground Committee has met twice. There are actually two boards that make this Committee up, the Trustees and the Representatives. We discussed having the Park put into the Cities name and the Veterans Memorial Park Playground Committee would cease to be and the City would take over the Park.

Mrs. Sizemore stated that the Playground Committee does not have any funds and has asked that Dave Izor work with the Law Director, but the City would have to pay for the fees for Dave Izor.

Council discussed the transferring of Veterans Memorial Park to the City. It was determined that the Manager would work with the Law Director and Dave Izor on an agreement between the Playground Committee and the City for the transferring of the Park grounds.

Twin Valley Heritage Foundation Project

Mrs. Sizemore reviewed the proposal from the Twin Valley Heritage Foundation. They would like to put a plaque at the flag pole located at the Senior Center. They plan to maintain the plaque and that area even though it is owned by the City.

Mr. Johnson stated that he would like the plaque to be worded with something general and not have a list of people's names.

Mrs. Sizemore stated that she would put this item on the next Work Session to be discussed further.

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Residential Zoning Code Analysis Proposal

Mrs. Sizemore stated that Mr. Schwaberow and she met with Dan Boron. This analysis should answer everyone's questions if the City is out of line with the fees for residential buildings.

Council discussed the agreement with Dan Boron regarding fees for residential building. It was determined the only change would be that Dan Boron compare the City of Germantown with six other communities instead of four communities for the price quoted. The Manager will get a new proposal from Dan Boron with the changes.

Monument Sign

Mrs. Sizemore stated she did receive two proposals for the construction of the monument sign located at Route 4. One quote was for \$9,000.00 and the other is for \$24,000.00. Patrick Hansford and she looked over each of these quotes and they are recommending the City go with the \$9,000.00 quote.

MOTION: Mr. Kuhn moved to adjourn to Executive Session to discuss imminent litigation.

ROLL CALL: Mr. Wafzig, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mayor Landis, yes. 6-yes, 0-no. **MOTION CARRIED.**

Mayor and Council adjourned to Executive Session at 8:48 p.m.

EXECUTIVE SESSION:

PRESENT:

The following members were present at the start of the Executive Session: Mayor Theodore Landis, Mr. Terry Johnson, Mr. Lynn Koogle, Mr. Mike Kuhn, Mr. Edward Schwaberow and Mr. Brian Wafzig.

MEMBERS ABSENT:

Mr. Steve Boeder was absent.

ALSO PRESENT:

Also present were Anna M. Sizemore, Municipal Manager and Tom Schiff, Law Director.

The aforementioned persons discussed imminent litigation.

Mr. Kuhn excused himself from Executive Session at 9:08.

MOTION: Mr. Johnson motioned to return to regular session.

VOICE VOTE ON MOTION. ALL IN FAVOR. MOTION CARRIED.

Mayor and Council reconvened into Regular Session at 9:21 p.m.

ADJOURNMENT:

There being no further business to come before the Council, Mr. Johnson moved to adjourn the meeting.

The meeting adjourned at 9:22 p.m.

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Respectfully Submitted,

Kelli R. Sanders-Novak
Clerk of Council

Theodore E. Landis
Mayor