

MUNICIPALITY OF GERMANTOWN COUNCIL

MONDAY, SEPTEMBER 19, 11

The Municipality of Germantown Council met in regular session on September 19, 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. Steve Boeder, Mr. Terry Johnson, Mr. Lynn Koogle, Mr. Michael Kuhn, Mr. Edward Schwaberow and Mr. Brian Wafzig.

MEMBERS ABSENT:

None.

ALSO PRESENT:

Also present were Anna M. Sizemore, Municipal Manager; Tom Schiff, Law Director; Roy McGill, Chief of Police; Terry Klein, Finance Director; Lynette Dinkler, Legal Counsel, Kelli Novak, Clerk of Council and several visitors.

APPROVAL OF MINUTES:

Mayor and Council reviewed the September 6, 2011 Council Meeting/Work Session minutes.

MOTION: Mr. Wafzig moved to accept the September 6, 2011 Council Meeting/Work Session minutes as submitted.

ROLL CALL: Mr. Boeder, yes; Mr. Johnson, abstain; Mr. Koogle, abstain; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mayor Landis, yes. 5-yes, 2-abstentions. **MOTION CARRIED.**

PUBLIC RECOGNITION:

None.

CITIZEN'S FORUM:

None.

FINANCE DIRECTOR'S REPORT:

Mr. Klein stated he would be starting the work session for the 2012 Budget meetings in November.

Mrs. Sizemore stated that the Capital Plan will be in the Council packets on Friday and will be on the October 3rd agenda.

MANAGER'S REPORT:

Mrs. Sizemore stated that the Fire/EMS Department has received a donation and Council needs to accept this donation of \$50.00.

MOTION: Mr. Koogle moved to accept the donation to the Fire/EMS Department.

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ROLL CALL: Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

Mrs. Sizemore reviewed her report.

CLERK'S REPORT:

None.

LAW DIRECTOR'S REPORT:

The Law Director explained Emergency Resolution No. 11-42 that is on the agenda.

POLICE CHIEF'S REPORT:

Chief McGill handed out the August Police report.

FIRE CHIEF'S REPORT:

Chief Alldred handed out the August Fire/EMS report.

MAYOR'S REPORT:

Mayor Landis and Jonathan Moore attended the FRWWTC meeting and stated that the EPA wants a report and Jonathan is working on that report.

COUNCIL MEMBER'S REPORT:

Mr. Boeder's Report:

None.

Mr. Johnson's Report:

He stated that Pretzel Festival is September 24th and 25th.

The Pool Board and Pool Oversight will be meeting on Wednesday.

Mr. Koogle's Report:

None.

Mr. Kuhn's Report:

None.

Mr. Schwaberow's Report:

None.

Mr. Wafzig's Report:

None.

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Legislation:

Introduction:

EMERGENCY RESOLUTION NO. 11-40

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO PURCHASE A 1992 VAC CON VACTOR TRUCK FROM THE CITY OF FRANKLIN, 1 BENJAMIN FRANKLIN WAY, FRANKLIN, OHIO 45005 FOR THE PURCHASE PRICE OF \$25,000.00 FOR USE BY THE MUNICIPALITY OF GERMANTOWN PUBLIC SERVICE DEPARTMENT, AND DECLARING AN EMERGENCY.

MOTION: Mr. Koogle moved to suspend the rules on Emergency Resolution No. 11-40.

ROLL CALL: Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mayor Landis, yes. 7-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. Koogle moved to adopt Emergency Resolution No. 11-40.

ROLL CALL: Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

EMERGENCY RESOLUTION NO. 11-41

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO PURCHASE A 2012 DODGE RAM 4500 DIESEL DUMP TRUCK FROM KEY CHRYSLER, 2020 NORTH DETROIT STREET, XENIA, OHIO 45385 FOR THE PURCHASE PRICE OF \$56,921.50 FOR USE BY THE MUNICIPALITY OF GERMANTOWN PUBLIC SERVICE DEPARTMENT AND DECLARING AN EMERGENCY.

MOTION: Mr. Johnson moved to suspend the rules on Emergency Resolution No. 11-41.

ROLL CALL: Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mayor Landis, yes. 7-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. Johnson moved to adopt Emergency Resolution No. 11-41.

Mr. Boeder questioned if there is money in the budget to purchase this vehicle.

Mrs. Sizemore replied that there are funds in the budget and this was included in the approved 2011 Budget. They waited till the end of the year to see if there were any surprises that came up that would need the funding.

ROLL CALL: Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

EMERGENCY RESOLUTION NO. 11-42

A RESOLUTION EXTENDING A MORATORIUM ON THE GRANTING OF ANY PERMITS ALLOWING THE OPERATION OF INTERNET CAFES OR OF BUSINESSES DEVOTING FLOOR SPACE TO INTERNET-BASED SWEEPSTAKES GAMES WITHIN THE MUNICIPALITY OF

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GERMANTOWN FOR A PERIOD OF SIX(6) MONTHS, AND DECLARING AN EMERGENCY.

MOTION: Mr. Boeder moved to suspend the rules on Emergency Resolution No. 11-42.

ROLL CALL: Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mayor Landis, yes. 7-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. Kuhn moved to adopt Emergency Resolution No. 11-42.

ROLL CALL: Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

EMERGENCY RESOLUTION NO. 11-43

A RESOLUTION ENACTING A MUNICIPAL-WIDE MORATORIUM ON NEW CONSTRUCTION WITH THE EXCEPTION OF:

PREVIOUSLY APPROVED SECTIONS IN THE EXISTING HILLCREST, HICKORY POINTE AND TRIANGLE STATION SERVICE AREAS OF THE MUNICIPALITY OF GERMANTOWN;
AND

PREVIOUSLY APPROVED ADDITIONS AT COMMUNITY HARVEST CHURCH, 6970 WEAVER ROAD OF THE MUNICIPALITY OF GERMANTOWN,

FOR A PERIOD OF SIX (6) MONTHS FOR THE PURPOSE OF PROTECTING THE EXISTING INFRASTRUCTURE AND PRESERVATION OF SAID INFRASTRUCTURE FOR THE REASON THAT BOTH THE MUNICIPAL ENGINEER AND FRANKLIN REGIONAL WASTEWATER TREATMENT BOARD HAVE OPINED THAT THE CURRENT INFRASTRUCTURE IS INCAPABLE OF HANDLING ANY ADDITIONAL FLOW NOTWITHSTANDING THAT SPECIFICALLY REFERENCED ABOVE, AND DECLARING AN EMERGENCY. IT IS FURTHER NOTED THAT THESE OPINIONS ARE ENTIRELY SUPPORTED BY THE ENFORCEMENT ACTION TAKEN AGAINST THE FRANKLIN REGIONAL WASTEWATER TREATMENT BOARD, WHICH SERVICES ITS MEMBER GERMANTOWN. ADDITIONALLY, THE MINUTES FROM GERMANTOWN'S PUBLIC MEETING CONDUCTED ON SEPTEMBER 6, 2011, WHEREIN QUESTIONS FROM THE PUBLIC WERE ENTERTAINED ON THE SUBJECT, FULLY SUPPORT AND EXPLAIN THE LEGAL NECESSITY FOR THE MUNICIPAL-WIDE MORATORIUM ON NEW CONSTRUCTION.

MOTION: Mr. Koogle moved to suspend the rules on Emergency Resolution No. 11-43.

ROLL CALL: Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mayor Landis, yes. 7-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. Boeder moved to adopt Emergency Resolution No. 11-43.

Mr. Schwaberow questioned how broadly interpreted is the rule, can someone still build a storage shed for example.

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Mrs. Sizemore replied that is not prohibited.

Mr. Schwaberow stated that the interpretation should be that this moratorium will not add any additional sewage to the current system. Minor alterations that do not have anything to do with the sewer are still going to be permitted.

Mr. Boeder questioned if residential additions that require sewer/water would not be allowed.

Mrs. Sizemore stated that if it adds an additional bathroom then we would not be able to allow the addition to be done.

ROLL CALL: Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

Public Hearing:

RESOLUTION NO. 11-34

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO ENTER INTO AN AGREEMENT WITH JEFF BURTON, STEADY PACE CONSTRUCTION, 13424 HARRIS ROAD, GERMANTOWN, OH 45327, IN THE AMOUNT OF \$9,425.00 FOR THE CONSTRUCTION OF AN IDENTIFICATION SIGN AND MONUMENT.

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

MOTION: Mr. Koogle motioned to adopt Resolution No. 11-34.

ROLL CALL: Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

RESOLUTION NO. 11-35

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO ENTER INTO AN AGREEMENT WITH DANIEL BORON TOWN PLANNERS, LLC, 5743 LESTER ROAD, CINCINNATI, OH 45213-2462, IN A NOT TO EXCEED AMOUNT OF \$3,768.00 FOR THE ANALYSIS OF DESIGN AND DEVELOPMENT STANDARDS AND ASSOCIATED PERMITTING FEES FOR RESIDENTIAL ZONING DISTRICTS.

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

MOTION: Mr. Boeder motioned to adopt Resolution No. 11-35.

ROLL CALL: Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

RESOLUTION NO. 11-36

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO ENTER INTO A CONSENT AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR THE STATE ROUTE 725 RESURFACING PROJECT, PID NO. 87732, SCHEDULED FOR BID LETTING IN STATE FISCAL YEAR 2013.

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

MOTION: Mr. Wafzig motioned to adopt Resolution No. 11-36.

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A brief discussion took place regarding several areas on Route 725 that need attention before any resurfacing is done. It was determined that the Manager would look into these areas.

ROLL CALL: Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

RESOLUTION NO. 11-37

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO ENTER INTO A CONTRACT WITH NORTH AMERICAN SALT CO., 9900 WEST 109TH ST., SUITE 600, OVERLAND PARK, KANSAS 66210 FOR THE PURCHASE OF HIGHWAY ROCK SALT IN THE AMOUNT OF \$63.23 PER TON.

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

MOTION: Mr. Boeder motioned to adopt Resolution No. 11-37.

ROLL CALL: Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

ORDINANCE NO. 11-38

AN ORDINANCE AMENDING SECTION 919.08 OF THE STREETS AND PUBLIC SERVICES CODE OF THE CODIFIED ORDINANCES OF THE MUNICIPALITY OF GERMANTOWN REGARDING OVERPAYMENT OF FINAL UTILITY BILLS.

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. 11-38.

ROLL CALL: Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

RESOLUTION NO. 11-39

A RESOLUTION TO DESIGNATE FIFTH THIRD BANK AS THE PUBLIC DEPOSITORY FOR THE MUNICIPALITY OF GERMANTOWN EMS BILLING AND AUTHORIZING THE MUNICIPAL MANAGER TO ENTER INTO A DEPOSITORY AGREEMENT FOR ACTIVE, INTERIM AND/OR INACTIVE PUBLIC FUNDS WITH FIFTH THIRD BANK.

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

MOTION: Mr. Koogle motioned to adopt Resolution No. 11-39.

ROLL CALL: Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mayor Landis, yes. 7-yes, 0-no. MOTION CARRIED.

EXCUSE ABSENT MEMBERS:

None.

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OTHER BUSINESS:

WORK SESSION:

Work Session began at 7:28 p.m.

Garage Sale Permit Fees and Regulations

Mrs. Sizemore stated that Mr. Koogle requested we look into garage sale permit fees and regulations. As of now we do not require anyone to get a permit and we do not have any regulations for garage sales held in the City.

Mr. Koogle stated that there are residents that are holding eternal garage sales in residential areas that are totally uncontrollable. These sales are driving the surrounding neighbors crazy. He would like to see some control over these garage sales. If these people want to run a company they need to move to the downtown area and open a store.

A brief discussion took place regarding rules and regulations on garage sales in the City. It was determined that there will not be a permit fee, they can have a sale twice a year in addition to the two community garage sales for three consecutive days and they must remove their signs in a timely manner. It was suggested that the permit form be on the website for easy access. If these rules and regulations are part of the Ordinances there will be penalties for not removing the signs and having a sale for longer than what is allowed. The Manager will work on putting legislation together.

MOTION: Mr. Johnson moved to adjourn to Executive Session to discuss imminent litigation and personnel issues related to the Fire Chief.

ROLL CALL: Mr. Kuhn, yes; Mr. Schwaberow, yes; Mr. Wafzig, yes; Mr. Boeder, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mayor Landis, yes. 7-yes, 0-no. **MOTION CARRIED.**

Mayor and Council adjourned to Executive Session at 7:42 p.m.

EXECUTIVE SESSION:

PRESENT:

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

MEMBERS ABSENT:

None.

ALSO PRESENT:

Also present were Anna M. Sizemore, Municipal Manager, Tom Schiff, Law Director and Lynette Dinkler, Legal Counsel.

The aforementioned persons discussed imminent litigation and personnel issues related to the Fire Chief.

Mr. Kuhn excused himself from Executive Session at 8:10 p.m.

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

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

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Mayor and Council reconvened into Regular Session at 8:35 p.m.

ADJOURNMENT:

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

The meeting adjourned at 8:36 p.m.

Respectfully Submitted,

Kelli R. Sanders-Novak
Clerk of Council

Theodore E. Landis
Mayor