

MUNICIPALITY OF GERMANTOWN COUNCIL

MONDAY, SEPTEMBER 21, 15

The Municipality of Germantown Council met in regular session on September 21, 2015 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 Stephen Boeder, Mr. Mark Heistand, Mr. Terry Johnson, Mr. Lynn Koogle, Mr. Michael Kuhn, Mr. Robert Rettich, IV and Mr. Brian Wafzig.

MEMBERS ABSENT:

None.

ALSO PRESENT:

Also present were Anna Sizemore, Municipal Manager; Tom Schiff, Law Director; Roy McGill, Chief of Police; Matt Burns, Police Major; Kelli Sanders-Novak, Clerk of Council and several visitors.

APPROVAL OF MINUTES:

Mayor and Council reviewed the September 3, 2015 Special Session minutes.

MOTION: Mr. Heistand moved to approve the September 3, 2015 Special Session minutes as submitted.

ROLL CALL: Mr. Heistand, yes; Mr. Johnson, abstained; Mr. Koogle, yes; Mr. Kuhn, yes; Mr. Rettich, yes; Mr. Wafzig, yes; Mayor Boeder, yes. 6-yes, 1-abstention. **MOTION CARRIED.**

Mayor and Council reviewed the September 8, 2015 Regular Session minutes.

MOTION: Mr. Wafzig moved to approve the September 8, 2015 Regular Session minutes as submitted.

ROLL CALL: Mr. Heistand, yes; Mr. Johnson, yes; Mr. Koogle, yes; Mr. Kuhn, abstained; Mr. Rettich, yes; Mr. Wafzig, yes; Mayor Boeder, yes. 6-yes, 1-abstention. **MOTION CARRIED.**

Mayor and Council reviewed the September 10, 2015 Special Session minutes.

MOTION: Mr. Heistand moved to approve the September 10, 2015 Special Session minutes as submitted.

ROLL CALL: Mr. Heistand, yes; Mr. Johnson, abstained; Mr. Koogle, yes; Mr. Kuhn, abstained; Mr. Rettich, yes; Mr. Wafzig, abstained; Mayor Boeder, yes. 4-yes, 3-abstentions. **MOTION CARRIED.**

PUBLIC RECOGNITION:

Chief McGill stated that with the recent retirement of Neil Moreland and Darryl Swafford we have hired two new officers and have made promotions. At the next Council meeting he will have a presentation on the new body cameras.

Mayor Boeder gave Sergeant Nathan Wale the Oath of Office.

Mayor Boeder gave Corporal Jason Mowery the Oath of Office.

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CITIZEN'S FORUM:

Steve Mersch, 7347 Weaver Road, thanked the Municipality and Council for their support with the second annual Twisted Pretzel Bike Tour. This event brings the best out in everyone and supports the local food pantries.

He also stated that he serves as a member of the Parks and Recreation Board and would like to make Council aware of the many discussions the Board has had regarding the proposed dog park. This is a country community and other items need to be done before considering this. He is not in favor of the dog park. Council needs to listen to the community and think about what is best for Germantown.

Karen Six, 163 Strawberry Fields Drive, expressed concerns with the street levy and wants to know what order the streets are to be repaired. She questioned where the tax monies are going since they pay such a large amount. She questioned how many households are in the city, she would like to calculate just how much the levy will generate.

Mayor Boeder suggested that she schedule a meeting with the Manager and himself to discuss the questions she has.

The Law Director made the audience aware of the rules in the Charter that do not allow Council members to have question and answer conversations with citizens during the meeting.

Mr. Kuhn stated that the minutes are on the website and that the conversations regarding the street levy are in the minutes. The minutes are public record.

Mr. Wafzig stated that Council can address comments during the Council member's individual reports. We may not have all the information during the meeting and it would be best to meet with the Manager or attend the public meeting on October 21 to discuss the street levy in detail.

Harry Ewing, 163 Strawberry Fields Drive, feels that the street levy was snuck by the residents.

Mayor Boeder explained that Council has discussed the street levy and it is in the minutes. We have passed many pieces of legislation concerning the street levy. No city money was used to support the street levy.

Mr. Ewing questioned the money used to have the special election.

The Law Director explained that the City did not use funds to support or not support the levy.

Mr. Ewing questioned if the people who owned the Camp Miami property donated the land to the city or did the city pay for it.

Mayor Boeder stated that the Council has discussed Camp Miami during several meetings and those discussions are in the minutes.

Mr. Kuhn stated that you can also watch the Council meetings online.

The Law Director stated that the city did not spend funds to purchase the property.

MANAGER'S REPORT:

Mrs. Sizemore stated that the Fire-EMS has received a donation and Council needs to accept the donation of \$150.00.

MOTION: Mr. Kuhn moved to accept the donations to the Fire-EMS.

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

She went on by saying that the fire hose that was included in legislation a few weeks back has sold on GovDeals for \$232.37.

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She spoke with Vectren regarding the hard surface restoration due to the gas line project and hopefully they will be out to do the work this week.

She attended the Gov Tech meeting last week. They discussed the Technical Crime Suppression Unit and the funding the State has cut. They are discussing options and have asked each Police Chiefs to give the Managers a recommendation. The Managers will then discuss the recommendation at a later meeting.

She is working with the Mayor and Mr. Wafzig to put information together regarding the proposed dog park. We would like to have a public meeting to hear feedback.

She is setting up a meeting with Montgomery County and the Mayor to discuss the dispatch fees. We are currently trying to gather all the numbers and options for Council to review.

She has been in contact with O'Reilly Auto Parts and their progress with their new building. This project is located in the area of the agreed order and she will discuss this matter with legal counsel before O'Reilly's moves forward.

We were contacted by the Ohio Rail Development regarding five rail road crossings that are in violation and need stop signs installed. The Dupp's Company has control of the tracks through town but the city will install the required stop signs and then get reimbursed for any expenses. This will also require legislation changes and amendments to the traffic control maps.

She announced again the public meeting to discuss the street levy will be held October 21 at 7:00 p.m. in Council Chambers.

The Capital Program will be presented at the next meeting. They are combining the Capital Program with the Budget. We would like to narrow the Capital Program down and not have it as a wish list any longer but a list of items that are needed.

She went on by reviewing her work load items for the year.

We have been doing online utility bill pay since January and it is going very well. We have processed over \$101,000. The residents seem to enjoy this service and it has cut down on the amount of shut-offs each month. She reminded everyone that there is a two day delay when paying online and to plan accordingly.

We have done shred it days in 2014 and 2015 and they were very successful. We plan to schedule a day in 2016.

The Route 4 traffic signals and crosswalks have been corrected and changed to LED lighting.

The black street lamps throughout downtown have been repainted and having electrical repairs done as needed.

There have been many changes to the newsletter and we have added the insert to the utility bills. If anyone has any comments please let her know.

The East Market Street bridge repairs have been made by the City. If anyone feels that it is still slippery, please contact the city building.

The Camp Miami project is complete and has been seeded. There are some shelters and a backstop that still remain standing.

We continue to make improvements to Kercher Park. We hired Mr. Roberts to maintain the baseball diamonds and our relationship with VV Base seems to have improved.

The North Well Field debris removal project is almost completed. We may not be able to get all the debris removed because it is in the trees; it has been a dumping ground for many years.

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We will continue on updating legislation, the record retention policy, the water contingency plan, the maintenance of the structures at Veterans Park and the Walnut Street ditch issue. The Franklin Regional Waste Water Treatment Plant contracts are on the agenda tonight and at a later date we will have the inter-governmental agreement which is an agreement between the entities. We will still be looking into the water towers and the Wetz Lane utility easement.

We are currently working on the 2016 Budget and it should be to Council in October.

She feels that we are doing very well with what we have and she receives a lot of positive comments. If anyone has any comments/concerns let her know. She has a good staff and especially the Street Department that has to handle many issues.

She congratulated Sergeant Wale and Corporal Mowery. She sat in on the assessment panel and everyone who participated did an excellent job. She was very proud of the staff.

Mayor Boeder questioned why all the debris is unable to be removed from the North Well Fields. Mrs. Sizemore replied that it has been cleaned up to the tree line that you can see but beyond the tree line is a lot more. We will look into how we can remove the remaining debris.

Mayor Boeder questioned if there was a need to have soil samples at the North Well Fields. Mrs. Sizemore replied that was Mayor Boeder's expertise. There were three chlorine cylinders found on the site. They have been secured and the company that they belong to is going to pick them up soon. Mayor Boeder suggested having a soil samples done just to be on the safe side.

Under Introduction is Resolution No. 15-55 which is the monthly transfer of the first and second quarter Cable Franchise Fees in the amount of \$5,527.63. Resolution No. 15-56 is to enter into a contract with Zimmerman Concrete Construction to complete 56 handicap ramps throughout the city. This is in the amount of \$48,350.00. Ordinance No. 15-57 levies an assessment on a property for grass and weed cutting. Resolution No. 15-58 which is the monthly transfer of funds for September in the amount of \$5,228.02.

Under Public Hearing is Resolution No. 15-52 which accepts the amounts and rates for 2015/2016 as determined by the Budget Commission at a 95% collection rate. Resolution No. 15-53 authorizes the Manager to execute the amended and restated service agreement with Veolia. She passed out the most updated contract from Veolia. Ordinance No. 15-54 is the rezoning of the Mejia property on Market Street. The Planning Commission denied the request from the Mejia's and the I.O.O.F. Lodge and it is now before Council. She explained that this legislation is written in the positive and will be up to Council after the Public Hearing if they wish to approve the application for rezoning.

Mr. Rettich requested a copy of the stop sign state legislation pertaining to the rail road crossings. Mrs. Sizemore replied that she would get him a copy.

Mr. Rettich asked that the Manager clarify how many days residents need to pay their utility bill in advance if paying online to avoid being shut off. Mrs. Sizemore stated that it takes approximately two business days to go through the system.

Mr. Rettich stated that he would like a map of the Camp Miami property. He is not sure that some of the shelters and the backstop are owned by the city. Mrs. Sizemore replied that she would get him a map.

CLERK'S REPORT:

None.

LAW DIRECTOR'S REPORT:

The Law Director congratulated Sergeant Wale and Corporal Mowery on their promotions.

He corrected his earlier statement and the rules for speaking to Council are in the Administrative Code Section 121.02(a)(3) not in the Charter.

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He reminded Council that Resolution No. 15-54 is written in the positive. He thinks by law Council has to vote no. The Planning Commission voted against this request for rezoning.

MAYOR'S REPORT:

Mayor Boeder read the Pretzel Festival Proclamation.

He mentioned that Hanna's Treasure Chest has asked for a Proclamation for September 28 thru October 4 to be Diaper Awareness Week. He expressed the need to help this organization.

He stated that Council will need to find a plan to deal with the rising cost of dispatch fees. He reviewed the cost of the past and current dispatch fees.

He received a call regarding the old water tower and it is fully functional and we are discussing replacing it at some point.

Council has many hard decisions to make and it is not always easy. Many topics are reviewed and discussed over and over during Council meetings.

He has worked with the Manager to create an insert for the utility bills explaining the street levy and encouraging residents to attend the public meeting.

He announced that Edward Jones would be having a seminar on October 14 to discuss Social Security.

COUNCIL MEMBER'S REPORT:

Mr. Heistand's Report:

Mr. Heistand congratulated Sergeant Wale and Corporal Mowery on their promotions.

He explained that all of Council's minutes are on the city website. All the meetings are filmed by Miami Valley Communications Council and can be viewed through the website.

The Lions Club will be hosting the second annual Twisted Pretzel Bike Tour this weekend. We are still accepting riders for the event. All the money that is raised will be distributed to local charities. The Friends of the Library will be hosting the Twisted Pretzel Beer Garden in the library parking lot. He encouraged everyone to participate along with Mr. Arnold who is 92 years old and will be riding on Saturday. If anyone is interested in volunteering for either of these events please contact him or Steve Mersch.

He stated that the street levy committee is working to get the information to the residents. They are looking to raise funds to help support the levy by purchasing signs to be placed in yards. Please contact Jo Ann Botts to donate to the street levy at 142 South Main Street.

The City Beautiful Commission met on September 15. They will be planting mums in the flower pots. Their next meeting will be October 27. At their last meeting they chose 30 West Market Street for the Fix up Award. The fall landscape contest and the Halloween contest are underway. Nominees need to be in by October 26 to the City.

Registration for the Valley View Alumni Band for the Homecoming Parade and half time performance can be sent to Jean Powell by October 4 at 63 Farmersville Pike.

Mr. Johnson's Report:

Mr. Johnson congratulated Sergeant Wale and Corporal Mowery on their promotions.

He attended the VV Base organization meeting last week. The Manager is looking for a place that they would be able to have their monthly meeting. They plan to meet the third Tuesday of each month.

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Mr. Koogle's Report:

Mr. Koogle attended the Cemetery Board meeting. Revenue is currently down. They are looking at replacing some of the trees throughout the cemetery.

Mr. Kuhn's Report:

Mr. Kuhn congratulated Sergeant Wale and Corporal Mowery on their promotions and thanked them for their commitment to the community.

Mr. Rettich's Report:

Mr. Rettich congratulated Sergeant Wale and Corporal Mowery on their promotions.

He went on by encouraging everyone to attend the Pretzel Festival this weekend.

He also encouraged residents to participate in the Germantown 50k this Saturday at the Germantown Metro Park.

Mr. Wafzig's Report:

Mr. Wafzig addressed the questions regarding the streets by reviewing past street projects and the cost for each project. The streets have been discussed since he has been on Council. He explained that the city is not funded to tackle all the projects that are needed.

The dog park has been discussed for approximately four years. If we look into it further we would have public meetings to gather input.

He has been made aware of rumors that Council is planning on developing the Camp Miami property. He would like to make it clear that Council has not made any decisions on what to do with the property.

Legislation:

Introduction:

RESOLUTION NO. 15-55

A RESOLUTION TO AUTHORIZE THE TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE STREET FUND.

Mayor Boeder stated the Public Hearing would be October 5, 2015.

RESOLUTION NO. 15-56

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO ENTER INTO A CONTRACT WITH ZIMMERMAN CONCRETE CONSTRUCTION LLC, P.O. BOX 1, GERMANTOWN, OHIO 45327, IN THE AMOUNT OF \$48,350.00 FOR THE CDBG HANDICAPPED ACCESS INFRASTRUCTURE PHASE III PROJECT.

Mayor Boeder stated the Public Hearing would be October 5, 2015.

ORDINANCE NO. 15-57

AN ORDINANCE LEVYING AN ASSESSMENT FOR THE CUTTING AND REMOVAL OF WEEDS AND/OR PLANT GROWTH FOR A CERTAIN PROPERTY IN THE MUNICIPALITY OF GERMANTOWN, OHIO.

Mayor Boeder stated the Public Hearing would be October 5, 2015.

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RESOLUTION NO. 15-58

A RESOLUTION TO AUTHORIZE THE TRANSFER OF FUNDS FROM THE GENERAL FUND TO THE STREET CAPITAL IMPROVEMENT FUND.

Mayor Boeder stated the Public Hearing would be October 5, 2015.

Public Hearing:

RESOLUTION NO. 15-52

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES FOR TAX YEAR 2015/2016 AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.

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

MOTION: Mr. Heistand moved to adopt Resolution No. 15-52.

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

RESOLUTION NO. 15-53

A RESOLUTION AUTHORIZING THE MUNICIPAL MANAGER TO EXECUTE THE AMENDED AND RESTATED SERVICE AGREEMENT WITH VEOLIA WATER FOR THE OPERATION OF THE FRANKLIN AREA WASTEWATER TREATMENT PLANT.

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

MOTION: Mr. Wafzig moved to adopt Resolution No. 15-53.

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

ORDINANCE NO. 15-54

AN ORDINANCE TO REZONE PROPERTY OWNED BY RODOLFO AND COLETTE MEJIA, BEING PROPERTY ID NUMBER D13 00106 0010 AND LOCATED AT 436 W. MARKET STREET, FROM R-1 SINGLE-FAMILY RESIDENTIAL TO C-1 COMMERCIAL BUSINESS.

Mayor Boeder opened the Public Hearing.

James Willis, 421 West Market Street, presented Council with the original petition that has been signed by residents on West Market Street stating that they are against the rezoning of 436 West Market Street. He read the petition and gave it to the Manager.

Dr. Rudy Mejia, 436 West Market Street, stated that he is the owner of the property and apologized to his neighbors for trying to do a spot zoning. He explained that was the only way he could speak to the Planning Commission. There are many other clubs that meet in residential areas. He does not want to rezone the property. At the Planning Commission meeting he was instructed to file a petition to amend the Code to allow a non-profit fraternity in an R-1 district. He is planning on moving forward with that new petition.

The Law Director reiterated that what is asked tonight is a rezoning of the property. The Odd Fellows simply do not comply with the permitted uses or conditional use of the R-1 district. Tonight we are looking at doing spot zoning. By law he is not sure Council can approve the request.

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Mr. Rettich stated that the Planning Commission did discuss the proposed application and he can only speak for himself. He cannot approve the property to be changed to C-1. He would like to see the Odd Fellows succeed. If there is a way within the law to have the Odd Fellows use the property he would be in favor.

Malia O'Brien, 323 West Market Street, stated that she would have concerns of what could happen 5-10 years down the road if it were zoned commercial. What potential business could move in, a bar or a bingo hall, no one knows. She also felt that the publication for this hearing was just a blurb in the paper and should have been clearer and broader.

The Law Director explained that the notice of the public hearing was done like we have done in the past and how the Code allows. If we are not consistent it becomes a problem.

Wilma Hamilton, 520 West Market Street, stated that she has an undeveloped property two doors down from this property that she may be looking at selling someday. If there was a change to allow spot zoning she would be interested in possibly selling her property as commercial which she is sure her neighbors would not want.

Janet Withrow, 452 West Market Street, stated she lives next door to the property. She is pleased with her neighbors but is not in favor of the Odd Fellows moving in. The area is already very busy with traffic and it would be worse. She has heard about the proposed ideas of the Odd Fellows and she does not want a picnic area in her back yard.

Jessica Keeton, 424 West Market Street, stated she lives next door to 436 West Market Street. She would have a concern of the property values if there was a change. She would be against the change of zoning code too. There is a shared alley way and would have concerns for her toddler if the alley was shared with a business. She would be against the commercial use at 436 West Market.

Dwain Eckman, 404 West Market Street, stated that he has many concerns with the property becoming commercial. He would have concern of traffic being an issue. His concerns are long term and if for some reason the Odd Fellows were to sell the property, what would move in. He does not feel this is a good change for the community.

Don Owens, 8758 Oak Drive, Chief Trustee of the Independent Order of Odd Fellows, I.O.O.F, stated that everyone needs to be open to the idea of change. He stated that the Odd Fellow meetings are held at 7:30 in the evening and would not cause additional traffic. He questioned what exactly was allowed in a residential area.

The Law Director reviewed the permitted uses and conditional uses under the R-1 Single Family Residential district.

Mr. Owens went on by saying that the Odd Fellows have intentions of opening a museum on the property. He feels that there is no reason why the Odd Fellows cannot use the property. They have been in their current location since 1843 and have had no neighbor complaints. If they need to go back to the Planning Commission again for the change in the zoning code they will.

Mayor Boeder encouraged the Odd Fellows to move forward with the Planning Commission and the new application.

Delmer Burns, 11755 Sigel Road, stated that the Odd Fellows are planning on putting the state museum in the proposed location. We would also want to be able to meet at the location with approximately 15-20 members at each meeting. There is a large paved lot in the rear of the property that the members would use and not park on the street. Rezoning is probably not the way to go about this.

Judy Bush, 93 North Maple Street, questioned if the museum would be open to the public. If so she would have concerns of the alley and the small children in the area. She feels there would also be more traffic issues.

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The Public Hearing was then closed.

Mr. Heistand stated he has listened to the comments said tonight and thanked them all for coming to the meeting. He appreciates what the Planning Commission has done in this process and has read the minutes from their meeting.

Mayor Boeder felt that it was good that the residents came and discussed the topic. He feels that the people who have spoken have a concern of the use of the property and nothing against any individuals.

MOTION: Mr. Heistand moved to adopt Ordinance No. 15-54.

ROLL CALL: Mr. Heistand, no; Mr. Johnson, no; Mr. Koogle, no; Mr. Kuhn, no; Mr. Rettich, no; Mr. Wafzig, no; Mayor Boeder, no. 0-yes, 7-no. **MOTION FAILED.**

EXCUSE ABSENT MEMBERS:

None.

ADJOURNMENT:

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

The meeting adjourned at 8:51 p.m.

Respectfully Submitted,

Kelli R. Sanders-Novak
Clerk of Council

Stephen A. Boeder
Mayor