

March 19, 2012  
Council Chambers  
7:00 p.m.

## COUNCIL MINUTES

### ROLL CALL

Mr. Cost, Mrs. Floyd, Mr. Frost, Mr. Guthrie, Mr. Houdeshell, Mrs. Loomis, Mr. Marmie, Mr. Rath, Ms. Stare, Mr. Bubb

INVOCATION - Mrs. Loomis

PLEDGE OF ALLEGIANCE - Hanover Boy Scout Troop 57

### CAUCUS

**Douglas E. Sassen** - Director of Law, my recommendation is because there are no specific procedural guidelines that a member of council makes a motion to appoint the five selected members to the Charter Review Commission and if council is so inclined to impose a deadline on this commission to include that deadline in the motion appointing these five members.

If this commission is going to make any recommendations and those recommendations are going to make their way onto the ballot in 2012 then we will have a deadline that their report be back to us the first week of July so it can work its way through the legislative process. It needs to be at the board of elections by August 8 if it's going to make it onto the ballot in 2012.

Five years ago the commission was impaneled and commissioned by a resolution. Ten years ago the mandatory charter review commission was done in a manner similar to what we're doing tonight. So the record is complete I'd ask someone to make a motion, someone to second that, debate and roll call vote the same as we would do on any piece of legislation.

**Mr. Ellington** - if we should get to the decision deadline and the commission needs more time we can always extend it by a council vote and it would be on the next election cycle.

**Mr. Sassen** - if you wish you can not impose any deadline on them at all and they can take as much time as they want, but that would not make it on the 2012 November ballot.

**Mr. Guthrie** - I would like to see us give this group plenty of time; July 15 is not plenty of time. If the group looks at serious things such as a manager form of city government, going to a nonpartisan city and looking at what other cities around Ohio are doing it's going to take some time. We should give this group the flexibility to have the time they need; I would hope we'd give them at least until the end of the year. If they recommend changes it would go on the ballot in November of 2013.

**Mr. Frost** - agreed with Mr. Guthrie but if there is a possibility they can reach a resolution and get something on the ballot this year and if they feel it is important we should give them the option. If we impose a report day of July 1 to at least get a status report then we'd know whether or not we had to start moving forward to get something on the ballot this year or there is no reason we shouldn't say they haven't reached an agreement but have some good ideas, take more time and come back to us later on and we'll look at putting those changes on the ballot in 2013.

**Mr. Guthrie** - agreed with that concept as long as you make it open ended. If we make it open-ended and the committee wants to put an issue on the 2012 ballot could they put another piece on the ballot in 2013 or does it all have to go on the ballot together?

**Mr. Sassen** - you're probably looking at another charter review commission. When this charter review commission makes its report to council for something to go on the ballot in 2012 it by definition then ceases to exist. If they feel there is more work to do then a new charter review commission, and the charter allows for a discretionary charter review commission, could be impaneled. It could be the same people only now with a different mission and a different time table but you would have to go through that new formality.

If the commission finds there are some larger issues, council can extend the deadline if desired.

**Mr. Guthrie** - we need to give this group discretion as to whether they go forward. We're appointing these people, should let them do their jobs and give them a window. Ask for a preliminary report July 1; if they are ready to make a recommendation great, but we should give them a window until December 31.

#### MINUTES

Motion by Mr. Rath, second by Ms. Stare minutes of the March 5, 2012 meeting be approved as presented and the reading be dispensed with in view of the fact each member of council has received written summary of same. Motion passed unanimously.

#### APPOINTMENT

The following individuals are being appointed to the Charter Review Commission: Gary Hoskinson, Jim Holman, Pete Gibney, Susan Kamps, and Donna Sears.

Motion by Mr. Frost, second by Mr. Rath to approve their appointment to the Charter Review Commission with a report for any recommendations to council with regards to changes in the Charter by July 1, 2012 with the understanding if they cannot reach an agreement of proposed changes by July 1 this council would then move forward to extend the deadline to December 31, 2012.

**Mr. Guthrie** - if we're going to empower these folks we need to give them plenty of time to look at the serious issues they want to look at and we submit to them. Council and citizens have a right to submit ideas to them for review.

**Mrs. Floyd** - this is the constitution for the city of Newark, from now until July 1 isn't very much time. I want to be sure they have plenty of time to do this so maybe they let us know where they're at by July 1 but they have plenty of time to continue on.

**Mr. Rath** - if this is a five year review of the constitution for the city, I don't anticipate a significant amount of changes and it is a review. I'm in full support of giving them a deadline to complete the review of the Charter. If there are problems or discrepancies then let them come to us and ask for an extension, it's council's prerogative to grant one if necessary.

Motion by Mr. Guthrie, second by Mrs. Floyd to amend Mr. Frost's motion by stating the group provide a preliminary report, which could be a concluding report, by July 1 but they have the discretion to continue their work until December 31 and report to council at that time.

**Mr. Houdeshell** - if we have a decision by July 1 and they want to study other things, can we pass those and the review committee start again or do they have to wait for five years?

**Mr. Sassen** - you can create a new committee and it could be done next year.

**Mr. Marmie** - will not support the amendment. The July 1 deadline with an opportunity to extend giving the authority to the committee, it's ultimately council's vote whether or not any of the recommendations are going further anyway. Just seeing where they're at and if it warrants an extension gives some kind of a deadline and a time line to go by knowing they can always come and ask for additional time. I don't see a problem with that.

**Mr. Guthrie** - about two years ago there were bipartisan comments from this council that we should look at the city manager concept. We ought to be looking at this, let the citizens have input on it and make a decision whether this group feels they should bring us something that should go on the ballot after thoroughly looking at the other cities in this state that have gone with a city manager form of government, have gone to a non-partisan form of government, which is now over half the charter cities in this state. Giving them all the time they need without the pressures of having to rush to look at these important issues is empowering and they kind of thing we should be doing.

Motion to amend failed by a vote of 4 yeas (Cost, Floyd, Guthrie, Stare), 6 nays (Bubb, Frost, Houdeshell, Loomis, Marmie, Rath)

**Mr. Ellington** - the committee is going to come to us

**Mr. Marmie** - point of order, the president is not to enter into debate.

**Mr. Ellington** - I was not debating, just trying to explain the motion.

**Mr. Sassen** - as the motion is currently framed, you have a report deadline of July 1. If they feel they are making progress or there are big issues on their agenda and they want more time the process at that point, which is authorized by the Charter, would be for them to come to council and ask for more time. Council has the authority to say yes and council has the authority to say no. If council says no then July 1 means July 1 then they give you what they've got the best they can and that's the end of it but if they make a compelling argument that with more time they would be able to get a better report to you, six votes of council extends their time. If you put the requirement on them to come to council and ask for more time it gives the power to council to grant or deny it.

**Mr. Bubb** - it's very important we do have a deadline. Other committees have had discussions for years with no decisions ever reached. You have prepared people here; this gives them three good months to look at stuff and not drag things on and on. Let's set a deadline, get results and move the city on.

**Mr. Guthrie** - if there are going to be major considerations given to issues such as going to a city manager form of government, going to a nonpartisan election three months is nothing as far as looking at what other communities are doing and picking the best. It's letting these people make decisions without any pressure or feeling they have to do anything other than giving a preliminary report July 1.

**Mr. Marmie** - this group is going to have an indication as far as how far they're going to want to go well before the ninety days; they are going to know in a month or two whether or not they are going to dig that deep into something. This commission is going to come back to us well before that or explain here is what we're gonna do and here's why we're going to spend at least \$10,000 to put this out to the voters. I think it's going to happen quicker and if they have issues that are going to take more time they're going to let us know well before the July 1 deadline that they're going to need more time.

Motion to approve five members of the Charter Review Commission and establish a report date of July 1, 2012 carried by the following vote. 8 yeas (Floyd, Frost, Houdeshell, Loomis, Marmie, Rath, Stare, Bubb) 2 nays (Cost, Guthrie)

#### REPORTS STANDING COMMITTEES

Finance - Received and filed

Safety - Received and filed

Service - Received and filed

Personnel - Received and filed

#### COMMENTS FROM CITIZENS

**William Butcher** - 129 West Main Street, the trailer in back of the building next door needs to be moved because it's an eyesore.

**Jody Gardner** - 333 Heather Drive, Mr. Martin Richardson, Zoning Inspector, was very helpful in helping me obtain a permit for my signs. I would like to have the city's sign ordinance amended to allow some temporary signs to be up longer than thirty days, especially if they are advertising missing persons.

**Mr. Ellington** - Mr. Rhodes is looking at changing the sign ordinance so maybe the safety committee could consider this.

**Scott Fulton** - Adult Probation Director, Ordinance No. 12-5 has been presented to the personnel committee and forwarded to council. The adult probation director is the lowest paid city division/department head in the City of Newark by almost \$6,000.00. The City of Newark funded a salary study completed in 2007. It stated the adult probation department director has the same job duties/responsibilities as the water utilities/billing/meter supervisor and the superintendent of water distribution/sewer maintenance. The 2012 salary of the director of probation is \$55,954.33, the 2012 salary for the water utilities/billing/meter supervisor is \$63,027.77, and the 2012 salary for

the superintendent of water distribution/sewer maintenance is \$66,072.77. I have also shown my position in similarly populated jurisdictions was below the salary of my peers. I feel this is more than just a merit raise; it is correctly funding the position at an appropriate level.

As for opening the floodgates for other department/division heads to ask for raises should my increase be granted? If those other division/department heads can demonstrate their positions within the City of Newark and at similar jurisdictions are underfunded then they should bring that argument to their appointing authority and make a case for an increase.

I am an appointed at-will employee who works for elected officials. If the administrative judge chooses not to do an annual evaluation on me, I cannot do anything about that. The probation department and the court maintain its employee files, not human resources. Judge Stansbury has asked me to state if any council member would like a copy of my 2011 employee evaluation to please email him and he will forward you a copy.

Unfortunately, I have had to lay off four employees since 2006. These layoffs have resulted in reorganizing the probation department after both rounds of layoffs.

Nowhere in my job description does it say I am to write grants yet I have proposed and written these grants because of reduced funding of the probation department by the city despite the continued need for these resources. I am constantly looking at better, more efficient and effective ways to work with people on probation so the court and probation department can assist people in changing their behavior and not coming back into the criminal justice system.

I currently supervise ten probation officers, two clerical staff, and one part-time community service coordinator.

Like police officers we are first responders, carry firearms and have full arrest powers. We not only respond, we then work with these same offenders and their families for sometimes years assisting them not only with substance abuse treatment and mental health counseling.

I have heard city administrators and council members state during budget crisis they are not in favor of cutting safety forces to include police officers and firefighters on the street. Yet I have had to lay off two probation officers, one in 2006 and one in 2010.

In 2011 \$163,389.04 was collected in probation supervision fees; \$193,019.16 was invoiced to the county, who has agreed to fund 40% of the probation department expenses. These monies were deposited into the city's general fund. In 2012 \$417,716.25 will be brought into the city through grants from the probation department. These grants will fully fund four probation officers and four treatment programs for offenders.

Over the past three years I have worked on average more than 190 hours per year in which I was not compensated. Even though I'm a salaried employee, my job does not end at 4:30 p.m. I co-facilitate a cognitive behavioral therapy group that addresses criminal thinking errors and have also done numerous trainings and classes for the local Bridges Out of Poverty Initiative.

I've heard comments about the proposed 4% increase being excessive because I have already received a 1% cost of living increase on January 1, 2012 and will receive an all of the other city employees within my classification also received a 1% cost of living increase in 2012 and will receive an additional 1% in 2012.

I was the only city employee not to receive a 2% cost of living increase in 2006. In early 2006 Mayor Bain froze certain appointed officials to the 2005 wage schedule. At a later date all of the other appointed officials received their 2% increase except for me because I was told my salary was set by journal entry by the administrative judge, yet my salary could be frozen without an entry by the administrative judge. The administrative judge stated I needed to be added to the management and supervisory exempt employees wage schedule. I was added in 2007. The issue of me not receiving the 2% cost of living increase in 2006 was attempted to be fixed by Councilman Rhodes at a personnel committee meeting in 2007 but was pulled from the agenda at the request of Judge Higgins. I was told it would be revisited after the 2007 election but it never was.

I want to help people and give back to my community and feel I am doing that and want to continue to do that.

**Mr. Marmie** - would like to have a committee discuss what Mrs. Gardner has proposed; it would be to the benefit of the health, safety and welfare of citizens to make sure if

there is a missing person or pet that should be something that maybe could be done in an amendment versus waiting for an entire review of the sign ordinance.

Mr. Ellington - sent the issue to safety committee

ORDINANCES ON 1st READING

12-5 BY: MR. BUBB, MR. HOUESHELL, MS. STARE, MR. RATH

AN ORDINANCE SETTING COMPENSATION AND STATING POLICY WITH RESPECT TO THE POSITION OF ADULT PROBATION DIRECTOR IN THE ADULT PROBATION DEPARTMENT AND REPEALING ALL ORDINANCES AND RESOLUTIONS IN CONFLICT WITH THIS ORDINANCE.

Held to first reading

12-6 BY: MR. RATH, MR. BUBB, MR. HOUESHELL, MRS. LOOMIS, MRS. FLOYD, MS. STARE, MR. MARMIE

AN ORDINANCE AUTHORIZING AND DIRECTING THE NEWARK CITY DIVISION OF WATER AND WASTEWATER, THROUGH THE DIRECTOR OF PUBLIC SERVICE, TO CERTIFY TO THE LICKING COUNTY AUDITOR, THE SUM OF \$17,604.63 FOR COSTS INCURRED BY THE NEWARK CITY DIVISION OF WATER AND WASTEWATER FOR STORMWATER, WATER AND SEWER FEES TO BE PLACED AS A LIEN UPON CERTAIN PARCELS OF REAL PROPERTY.

Held to first reading

12-7 BY: MR. FROST, MR. BUBB, MRS. LOOMIS, MR. MARMIE, MR. HOUESHELL, MRS. FLOYD, MS. STARE, MR. COST, MR. RATH

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO, ENACTING A PROHIBITION ON THE USE OR POSSESSION OF ANALOG, OR SYNTHETIC, CONTROLLED SUBSTANCES.

Held to first reading

RESOLUTION ON 2nd READING

12-17 BY: MR. RATH, MR. BUBB, MR. HOUESHELL, MR. MARMIE, MRS. FLOYD, MS. STARE, MRS. LOOMIS

A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO TO ENTER INTO A CONTRACT WITHOUT COMPETITIVE BIDDING FOR THE REPLACEMENT OF THE PUMPS FOR THE MYRTLE AVENUE STORM LIFT STATION.

Motion by Mr. Rath, second by Mr. Bubb the resolution be adopted, 10 yeas

RESOLUTIONS ON 1st READING

12-19 BY: MR. MARMIE, MR. BUBB, MRS. LOOMIS, MRS. FLOYD, MR. HOUESHELL, MR. RATH, MR. COST

A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO PREPARE AND SUBMIT APPLICATIONS TO THE DEPARTMENT OF HOMELAND SECURITY, FOR FISCAL YEAR 2012 FIRE ACT GRANT PROGRAMS, IN SUPPORT OF TRAINING PROGRAMS, EQUIPMENT PURCHASES, FUNDING FOR PERSONNEL, FIRE PREVENTION, AND FIRE SAFETY PROGRAMS THROUGHOUT THE CITY.

Held to first reading

12-20 BY: MR. MARMIE, MRS. FLOYD, MRS. LOOMIS, MR. HOUESHELL, MS. STARE, MR. RATH, MR. COST

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF NEWARK TO ENTER INTO A COMMUNITY DEVELOPMENT BLOCK GRANT FUNDED SUBRECIPIENT AGREEMENT WITH THE HEREINAFTER NAMED ORGANIZATIONS TO CARRY OUT ACTIVITIES INCLUDED WITHIN NEWARK'S FY 2012 COMMUNITY DEVELOPMENT BLOCK GRANT ONE YEAR ACTION PLAN.

Held to first reading

12-21 BY: MR. MARMIE, MR. HOUDESHHELL, MS. STARE, MR. RATH, MR. COST

A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION. (\$33,508.84 into Flexible spending accounts, \$10,975 Transit vehicle purchase)

**Mr. Marmie** - we need to expedite this; these flexible spending accounts were to be set up for the employees' health care program and we need to make sure there are funds available in there.

Motion by Mr. Marmie, second by Mr. Cost to adopt Resolution No. 12-21 passed unanimously.

#### COMMENTS FROM CITIZENS

**Mr. Butcher** - is concerned about potholes in the parking lot behind where he lives and what is going to happen to the vacant building beside his apartment

#### MISCELLANEOUS

**Mayor Hall** - Mr. Fulton talked about Ordinance No. 12-5 tonight; I have a hard time agreeing with it from a financial perspective. Typically we do not do merit based pay raised, but we have declining revenues and increased expenses. I appreciate everything Mr. Fulton does and without a doubt he does an excellent job; our city employees are fantastic.

In the future the city is going to have less money coming in with the state doing away with inheritance taxes. It's tough to increase expenses unless somewhere directly it leads to savings. I'm available to discuss anything dealing with the budget.

Our transit operations director submitted her resignation. We have had several meetings and good dialogue with the county and the Licking County Area Transportation Study (LCATS); we are working diligently to create a more efficient, more improved system in the county. We're one of a few counties with two operating systems within the county and that clearly is not an efficient model. We can offer as good as, if not better, service at very good rates, if not better than that's what the truly important side of that is. We're going to take this in two steps and the first step is the merger and the second step would be the improvements. It's very important to merger two systems that have uniqueness to them and let that merged system look into improvements along the way.

**Mr. Cost** - I certainly hope with the Charter Review Committee we are going to give them all the time they need and we want to be open minded about how we go about how we are going to guide their boundaries. They need as much flexibility as they can have.

**Mrs. Floyd** - agreed with Mr. Cost. It's really important they have enough time to delve into it and it isn't an easy thing.

**Mr. Frost** - thanked Mr. Fulton for coming in. The mayor made a good point about the danger of merit based raises. Some of the problem may have been the fact it was thought the judge could do a judgment entry but law does not allow that for probation officers so if the judge had wanted to do that he didn't have the authority.

Mr. Fulton, you are highly respected for the great job you do and thank you for that.

**Mr. Guthrie** - congratulated the Wildcats for their great season and wished the Buckeyes and Bearcats both good luck

Called a safety committee meeting for March 26; it will discuss the sign and taxicab issues

**Mr. Houdeshell** - street committee will meet next week. The fire chief wants to discuss those alley vacations again because he has some serious problems with them.

**Mrs. Loomis** - economic development committee is meeting next Monday merely for a status report on the rental registration.

The water department combined positions and the water meter billing supervisor is now doing the job of two people instead of one and it was close to a \$60,000 job that went away. However, I'm interested in the 2% raise everyone but you got. Ordinance No. 12-5 is for 4% and then you mentioned you had four layoffs in your department. I appreciate your passion for it and you have a lot of support from your bosses.

**Mr. Marmie** - I wish our entire system was a merit based program. Ordinance No. 12-5 was presented to us that it was based on merit; after hearing tonight's statements I think there should be further dialogue but if it is purely a merit thing then I cannot support it because council cannot support a merit basis for pay raises.

I would like to see some type of resolution for Mrs. Gardner but won't be here the rest of the week due to the death of my grandmother.

Announced finance committee will meet March 26 at 5:30 p.m. in council chambers

Congratulated all the undefeated Ohio teams in the NCAA

Congratulated the Newark Generals Hockey Team for winning the state championship

**Mr. Rath** - service committee will meet next Monday.

Mr. Fulton, thank you for coming in and I appreciated your passion; it will be a difficult vote to cast because you do so much and do it so well and we certainly appreciate that.

Thanked Chief Sarver for coming

Suggested those who are on probation and serving community hours be put to work mowing or working in the parks department

**Mr. Fulton** - those individuals do put in hours at Cedar Hill Cemetery and around the Square preparing for Memorial Day

**Ms. Stare** - this weekend the Twentieth Century Flyer will have their show at the C-Tec Auditorium and it benefits Camp O'Bannon.

**Mr. Bubbb** - thanked the scouts for coming in

Thanked all city employees involved with the Operation Feed Program

Complimented and thanked everyone involved with the Big Brothers-Big Sisters bowling fundraiser last weekend. They raised over \$80,000; this was the first year the city had a team.

#### ADJOURNMENT

There being no further business for discussion, motion by Mr. Rath, second by Mr. Frost to adjourn. Motion carried by acclamation and the meeting adjourned at 8:11 p.m.