

## COUNCIL MINUTES

August 20, 2018  
Council Chambers  
7:00 P.M.

**7:00 P.M.** - President Ellington called the Monday August 20, 2018 Newark City Council Meeting to order.

**ROLL CALL-** Mr. Lang, Mr. Labutis, Mr. Marmie, Mr. Rath, Mr. Blake, Mr. Bubb, Mr. Cost, Mr. Fennell, Mr. Fraizer, Ms. Hall

**INVOCATION** – Mr. Blake

**PLEDGE OF ALLEGIANCE-** President Ellington

**CAUCUS- Rule 11 to consider:**

**By: Labutis, Lang**

**Ordinance No. 18-26** consenting to the annexation of certain territory generally described as being approximately 0.53 acres, more or less, located in Newton Township, to the City of Newark, Ohio, and declaring an emergency.

**Motion by Mr. Rath to adopt Ordinance No. 18-26, second by Mr. Cost**

**Mr. Rath-** this is a piece of legislation re-written do to a clerical error on the county's part.

**Motion Passed by a vote of 10-0.**

**By: Labutis, Lang**

**Ordinance No. 18-27** objecting to the annexation of certain territory generally described as being approximately 0.53 acres, more or less, located in Newton Township, to the City of Newark, Ohio, and declaring an emergency.

**Died for lack of action**

**By: Labutis, Lang**

**Resolution No. 18-68** adopting a statement indicating what services if any the city of Newark, Ohio will provide for approximately 0.53 acres more or less located in Newton Township, a territory proposed for expedited II annexation and declaring an emergency.

**Motion by Mr. Rath to adopt Resolution No. 18-68, second by Mr. Rath**

**Motion passed by a vote of 10-0.**

**By: Labutis, Lang**

**Resolution No. 18-69** regarding a buffer zone for the annexation of approximately 0.53 acres more or less located in Newton Township to the City of Newark, and declaring an emergency.

**Motion by Mr. Rath to adopt Resolution No. 18-69, second by Mr. Cost**

**Motion passed by a vote of 10-0.**

**MINUTES of August 6, 2018-** Motion by Mr. Labutis to approve the August 6, 2018 Newark City Council Minutes as presented and the reading be dispensed with in view of the fact each member of Council has received written summary of same, second by Mr. Fraizer. **Motion carried by acclamation.**

#### **APPOINTMENTS**

**President Ellington-** appointing Curtis Johnson to the City of Newark Assessment Equalization Board in place of previously appointed Roy VanAtta.- **No objection. Motion carried by acclamation.**

#### **REPORTS OF STANDING COMMITTEES**

Finance-**Received & Filed**

Service-**Received & Filed**

Rules-**Received & Filed**

#### **REPORTS FROM CITY OFFICIALS**

**Stephen Jonson, City Auditor-** operating report for the period ending July 31, 2018. **-Received & Filed**

**Barb Jobses, City Tax Administrator-** income tax reports for the period ending July 31, 2018. **-Received & Filed**

#### **COMMUNICATIONS**

**Mayor Hall-** proclamation for Licking County River Round Up

**Law Director Sassen-** asking Council to accept and confirm the date of September 18, 2018 at 5:00 P.M. to hear the objections received regarding the Fairway Estates Sewer Assessment Project. **Motion carried by a voice vote of 9-0-1 (Mr. Bubb abstaining)**

**Jodi Wiles-** email to Council regarding her disappointment with the Spencer House. **-Received & Filed**

**Ohio Division of Liquor Control-** transfer application from Rockabilly's Saloon to Local Burger Boys LLC at 606 W Church Street. **-Received & Filed**

**Russ Griffin, Griffin Floral Designs-** asking for a quick and decisive approval of his transfer liquor license request once received from the Ohio Division of Liquor Control for as little of a loss as possible of revenue and continued service to the Community. **-Received & Filed**

#### **COMMENTS FROM CITIZENS**

**Carolyn Cook, 898 Lateglow Ct-** spoke about transportation issues in our community and the need for a better system for the citizens in our community and for Council to make it a priority.

**Charlotte Hickcox-** representing the Ohio Vapor Trade Association, she stated that they appreciated the work that Mr. Lang put into Ordinance 18-22 and for making revisions to the legislation that they requested. Specifically their biggest concern was to make sure there was an exemption for an actual vapor store to be able to sell vape in that store. A lot of our customers will come in and try out different devices and different flavors so having that ability in the store keeps our businesses flourishing which provides a great service to those that are trying to get off traditional cigarettes. We are not opposed to the legislation; we understand the need for it.

#### **ORDINANCES ON SECOND READING**

**By: Lang, Cost, Rath, Fraizer**

**18-22 AN ORDINANCE AMENDING CHAPTER 1870 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO RELATIVE TO ELECTRONIC SMOKING DEVICES WITHIN THE MUNICIPAL CORPORATION**

**Motion by Mr. Labutis to adopt Ordinance No. 18-22, second by Mr. Lang**

**Motion by Mr. Lang to amend Ordinance No. 18-22 with Ordinance 18-22 A, second by Mr. Labutis**

**Mr. Lang-** as Ms. Hickcox mentioned she got in touch with me really just asking me to take a look at the legislation with an eye to sync it up to the language that the FDA uses. She proposed some language; I took a look on line at how the FDA describes some of the devices themselves. The first change was instead of using

the term electronic smoking devices we are using the electronic nicotine delivery system which is how the FDA refers to them. Not really changes the definition itself I did add a couple of other devices to the list to make it more clear that these are the devices that we are attempting to regulate. Electronic smoking devices made sense since you're not really burning anything there is nothing being combusted so smoking doesn't make sense. Second, the intent was to always create an exemption for retail vapor stores just like we do retail tobacco stores to allow people to smoke in those stores because when you walk into a tobacco or vapor store you know what you are getting into. We were asked to make that a little more clear. They are not retail tobacco stores they don't sell tobacco they sell electronic nicotine systems or vape devices so we created a separate definition for retail stores and again just carving them out the same way that we do retail tobacco stores. Then as I was going through it one of the things that I noticed was when we talk about how far you have to stand away from the entrances we really only mention vapor and I know that we discussed it at Safety Committee we talked about it more as an aerosol so to be clear we are talking about the by-product whatever you want to call it I didn't want to get into that so I just included both. Subsequently I will just make it clear we are not changing where you can use these devices the intent is to keep that the same really all we are trying to change is the clarity of which we describe what we are regulating.

Mr. Rath- he asked about the term primarily being used in section j on the third page as to whether primarily is a legally defining term? Is that 51% of sales through vapor? How do we define primarily?

**Mr. Lang-** the intent was to keep the same definition a retail tobacco store means a retail store primarily used for the retail of smoking material it is meant to be the same as how we define whether or not you are primarily a tobacco store. We wanted to keep the exact same words in place as to how we look at vape stores.

**Mr. Rath-** asked the Law Director if he is ok with that

**Director Sassen-** I am ok with it

**Motion passed by a vote of 10-0 to adopt Ordinance No. 18-22 A as amended.**

## **ORDINANCES ON FIRST READING**

**By: Rath, Cost, Marmie**

**18-23** AN ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY GENERALLY DESCRIBED AS 451 VAN TASSEL AVENUE, CITY OF NEWARK, LICKING COUNTY, OHIO FROM THAT OF MEDIUM INTENSITY BUSINESS ZONING DISTRICT TO GENERAL BUSINESS ZONING DISTRICT

**Referred to Planning Commission**

**By: Rath, Cost, Marmie**

**18-24** AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AND A RESOLUTION AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY.

**Motion by Mr. Rath to adopt Ordinance No. 18-24, second by Mr. Fraizer**

**Mr. Rath-** this is basically clerical clarification at the State level and it has the emergency clause to meet publishing deadlines.

**Motion passed by a vote of 10-0.**

**By: Cost, Marmie, Rath**

**18-25** AN ORDINANCE AMENDING CHAPTER 218 OF THE CODIFIED ORDINANCES OF THE CITY OF NEWARK, OHIO, REGARDING MANDATORY ETHICS TRAINING FOR CERTAIN ELECTED AND APPOINTED OFFICIALS

**Held for a second reading**

## RESOLUTIONS ON SECOND READING

**By: Marmie, Cost, Rath, Fraizer**

**18-57** 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 2018 COMMUNITY DEVELOPMENT BLOCK GRANT ONE YEAR ACTION PLAN.

**Motion by Mr. Marmie to adopt Resolution No. 18-57, second by Mr. Fraizer**

**Motion passed by a vote of 10-0.**

**By: Marmie, Cost, Rath, Fraizer**

**18-61** A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (**297 Fire Safety Grant Fund-\$665.00: EMS Grant Award**)

**Motion by Mr. Rath to adopt Resolution No. 18-61, second by Mr. Cost**

**Motion passed by a vote of 10-0.**

**By: Rath, Marmie, Cost, Fraizer**

**18-62** A RESOLUTION APPROVING AND RATIFYING AN UPDATED SOLID WASTE MANAGEMENT PLAN

**Motion by Mr. Rath to adopt Resolution No. 18-62, second by Mr. Fraizer**

**Motion passed by a vote of 10-0.**

## RESOLUTIONS ON FIRST READING

**By: Marmie, Cost, Rath**

**18-63** A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION Expedite (**153 Comp Abs-\$3,525.00: Payout; 153 Comp Abs-\$65,250.00: Payout; 153 Comp Abs-\$55,500.00: Payout; 153 Comp Abs-\$39,500.00: Payout; 231 Probation Grant-\$175.00- Scram Unit; 231 Probation Grant-\$2,920.43-Refund to State; 661 Sewer Dept Fund-\$12,745.00- River Gauge Contract**)

**Motion by Mr. Marmie to waive the two day reading rule, second by Mr. Cost**

**Mr. Marmie-** there are payouts on this resolution and we always expedite them to get the recipients their money quickly.

**Motion passed by a vote of 10-0.**

**By: Marmie, Cost, Rath**

**18-64** A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO PREPARE AND SUBMIT APPLICATIONS TO THE OHIO DEPARTMENT OF ENVIRONMENTAL PROTECTION AGENCY, FOR FISCAL YEAR 2018 DIESEL MITIGATION TRUST FUND (DMTF) PROGRAM FOR EQUIPMENT REPLACEMENT, REPOWER, RETROFIT AND ANTI-IDLE.

**Motion by Mr. Marmie to waive the two day reading rule on Resolution No. 18-64, second by Mr. Fraizer**

**Mr. Marmie-** in order to meet the deadline this needs to be waived for it to be submitted in time.

**Motion passed by a vote of 10-0.**

**Motion to adopt Resolution No. 18-64 by Mr. Marmie, second by Mr. Fraizer**

**Motion passed by a vote of 10-0.**

**By: Marmie, Cost, Rath**

**18-65** A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (**100 General Fund-\$24,246.00: Copier Payoff; 661 Sewer Dept Fund-\$20,000.00: Paving Program; 621 Water Dept Fund-\$15,000.00: Paving Program; 100 General Fund-\$3,335.90: Reimbursement of Overtime funds**)

**Held for a second reading**

**By: Marmie, Cost, Rath**

**18-66** AUTHORIZATION FOR THE CITY OF NEWARK TO PICK UP THE STATUTORILY REQUIRED CONTRIBUTION TO THE OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM FOR THE EMPLOYEES OF CITY PURSUANT TO INTERNAL REVENUE CODE SECTION 414(H) (2).

**Held for a second reading**

**By: Rath, Cost, Marmie**

**18-67** A RESOLUTION AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY NOW OWNED BY THE CITY OF NEWARK, OHIO TO NEWARK DEVELOPMENT PARTNERS AS ITS AGENT FOR INDUSTRIAL, COMMERCIAL, DISTRIBUTION, AND RESEARCH DEVELOPMENT

**Held for a second reading**

#### **COMMENTS FROM CITIZENS**

**Dan Kent, 515 Sherwood Downs S-** he stated that he understands the struggles for people who don't have a means of transportation that he walked to work for 5 years until he got his driver's license through the Spencer house. He stated that he had read through all of our minutes and didn't see any comments about poverty or transportation issues. He asked what way there was for Council to generate funds for transportation for citizens in our community.

**Rochelle Bolen Smith, 237 Violet Ct-** she thanked the two people who spoke about transportation and brought up some well needed comments. She stated that she feels the lack of transportation is going to be the city's limitation in terms of the future as far as growth. She encouraged Council to think more about that issue.

#### **MISCELLANEOUS**

**Director Mauter-** just to address the issue of transportation and mobility I would like for you to know that there is a group here in town working on it. We recently created a program called Vision 2028 a long range plan for the City of Newark. We have 7 areas of concentration to work on and one of those is mobility and transportation. There is a group in town very diligently working on that to try to improve the situation.

**Mr. Lang-** I would like to thank my colleagues for working with me in order to pass amended 18-22. It was unfortunate that the gentleman who contacted me that was having the issues that we couldn't get this done in time and his business has since closed due to in part the issue that we resolved tonight and hopefully we fixed that for other business owners and people around the city. I think that we have done a good service to our community by treating vaping the same as we do smoking. I think we have reduced what I would think is a public nuisance and potentially hazard but I am also glad that we could get it right working with the Trade Association to get the language right so we are not unduly prejudicing the businesses that are operating in our city. I would like to thank the Service Department for fixing an issue on Krebs Court and the Engineer's Department answered some questions I had on Myers Drive and our inspector for getting after some inspection issues I have been asking him about. I would like to thank the Police Department, specifically Officer Derek Beech. On Londondale we had a sad story about a young dog that some of you may have seen on Facebook that ran out into the street and was hit by an SUV that didn't stop and we traveling about double the speed limit. They really got on top of that and Officer Beech was out there running speed for us. I guess we are also going to get the speed trailer out there. I would just like to remind everybody that kids are going back to school and you are driving down residential streets to take your time and obey the speed limits. I think that

we are all guilty of rushing from time to time. I also want to congratulate Mayor Hall, Director Rhodes, The Licking County Foundation and everybody else who put an effort into getting the 21<sup>st</sup> Street bike park open. I was pleased to see that open I think that it is going to be a great addition to our community. There is a session being hosted by The Licking County Foundation at the library, it is called the better angels workshop and it is all about how to work with each other, how to talk to people on the other side of the political divide. I think that is very needed in our community. That is going to be at the Licking County Library Tuesday August 28<sup>th</sup> from 2:30-5:00 P.M. You can register for that on the Licking County website, I think that the seats are limited but it is free.

**Mr. Marmie-** called a Finance Committee Meeting. I would also like to comment on the transit, I hear individuals saying that we aren't addressing it here in Newark. A little bit of history we did have our own Transit Department here in Newark. The grant funding was continuously decreased; they kept changing the rules for what we could and couldn't do therefore the only alternative we really had was to combine services with the county. We had to pull those resources of dollars together so we each weren't trying to do the same thing with a lot less money. When we made that decision it is now up to the county. It is their responsibility to come up with feasible alternatives as far as what can be done. I would be in support of any kind of proposal they have and if they need additional funding for something it is not something that we would say we would never consider. The other thing is the City of Newark can't fund for the entire county so everybody would have to pitch in their fair share. There are Transit Departments in other counties that are working very efficiently and the main reason why is because they go outside of those bounds, they go 40 to 50 miles away for doctor's visits. It has to be coordinated and it has to be very organized. It has to be led by someone who is very compassionate about it. I have seen it work but that is going to have to be done at the county level. I don't think that there is anyone up here who wouldn't look at a proposal where they are going to make the program better. We agree there are transportation issues that need to be addressed, we would love to address them but it is not within our budget to do that but not only that we are over stepping our bounds a little bit because our Transit Department is with the county.

**Mr. Rath-** the Newark Police Department has announced a new Citizens Academy starting October 3<sup>rd</sup> I know that Mr. Lang has registered for it and has volunteered to be tazed. It starts October 3<sup>rd</sup> It is 6 weeks, three hours on 6 consecutive Wednesdays. If you want to learn more about how our phenomenal Police Department operates it is going to be a great program. I haven't talked to anyone who has said it wasn't worth their time. He called a Service Committee meeting.

**Mr. Blake-** I went through that program last year. I think that the legislation that was sponsored by Councilman Lang was very good and thank you for working with Charlotte Hickcox on that. Charlotte and I were staffers in the legislature 12 years ago she is a very knowledgeable person so thank you for working with her on that. Councilman Fennell had a birthday yesterday so I want to wish him a happy birthday. IAFF had a one year continuous affiliation birthday so happy birthday to our Local 109 Union. As a member of Kiwanis I would be reluctant to mention that we have a fish fry on Thursday September 6<sup>th</sup> and the social hour is at 4:30 then the dinner is at 5:30. If you want a ticket feel free to get with me after the meeting. Proceeds help with Camp O'Bannon. With regards to the people who spoke tonight about the transportation issue. I think that Elected Officials have some authority with regards to being advocates. We all know financial budget issues but I think just showing up to a meeting is important. I think advocating for people. While we may not have ways to be financially supportive I think we can be advocating for our people and attending those meetings. I know that you had posted a few meetings with members of the County Transit Board and I'm aware of the meetings that Director Mauter mentions so I think that sometimes just our presence and being there makes a difference. I would encourage members of Council to attend to get involved. I think that our presence says this is a priority this is a need so showing up does make a big difference. While we continue that discussion I wanted to share with Council that a childhood friend of mine that I haven't talked to for years contacted me and told me he was homeless and living in a tent in the woods. He used to live on Fleek Avenue. I think this homelessness also relates to transportation. It is something that we need more discussion on, this is something that is happening in our city. We have a beautiful downtown and beautiful things are happening in our city but we do have some barriers that need to be challenged that need to come into partnership with

city, community, non-profit, business with all of these entities. I really believe that when we have a focus and a goal and bring everyone together that is when we can make great things happen. I appreciate all the comments that were said tonight.

**Mr. Bubb-** wanted to welcome Community Bank on 21<sup>st</sup> Street to the City of Newark and Town's Family Billiards on 11<sup>th</sup> Street. They did a nice job refurbishing that building. There is an Ox roast this Saturday at the Maennerchore.

**Mr. Cost-** I would like to congratulate Director Mauter on the south side clean up lots of good things happened there. I also want to thank the folks that came in and discussed transportation. It is a major concern. For all of the progress that I am very proud of we have made downtown transportation is still an issue that we need to be looking at along with safe affordable housing and still the issue of having a downtown grocery store. For me those things still are important as Mr. Blake stated homelessness and poverty are very much related to those issues. It is something that we very much want to continue discussion on.

**Mr. Fennell-** I want to thank everyone who came and spoke about transportation tonight. I think it is easy for those of us who have easy access to transportation to forget the struggles for people who don't have access to that type of privilege. While it is not something that is directly within our purview I believe that we can advocate for and be stronger advocates for better transportation here in Newark. You coming and speaking tonight puts it in front of us and reminds us of things that are important and make our city better. Thank you for coming. Thank you to my mom for coming tonight as well.

**Mr. Fraizer-** I would like to congratulate Owens Corning on an addition that they are planning on building. The legislation tonight Jonathan was great. I want to congratulate the administration on the Community Development Block Grant, the sewer management plan and the legislation that is on the agenda tonight. Carolyn great work continue to advocate and continue to organize. I think that the real issue we have is how do we better utilize the system we have to make it more efficient, how do we increase ridership and decrease cost across the board and how do we leverage public lands and public stops in order to better facilitate transportation in the City of Newark. I think that advocating is one thing and finding a solution is another thing. I want to get back involved with your group to work as a bridge to the Transit Board in order to facilitate that change that we want to see. I think that if you look at the dynamics we have in place we can use a flex route transportation, better logistics in order to take that 4 million dollar investment that we have in transportation through the county and through state grants to build a more efficient and lower cost system. I don't see us being able to do a fixed route transportation but the ability to use a flex route transportation where we can have more servicing centralized location, centralized drop offs for employers and hospital visits is what is critical. One of the number one routes that the Licking County Transit does is for dialysis. I think there has to be a way to solve this. Thank you Mr. Kent for coming in as well.

**Ms. Hall-** I too want to address the transportation issue. People can't get to jobs. LCAT is good about getting folks to medical appointments and back again however that takes time and planning and it can be difficult for some. I have a small class on Friday's at Heritage Hall and I get calls all the time of people stating that they would love to take my class but don't have a way to get there. I think that it would be great for a lot of seniors to come out and take advantage of the things going on at the Heritage Hall they just don't have the means to get there. I'm hoping that we can figure something out to help the citizen of Newark.

**Mr. Labutis-** I'd like to comment on the Fory bike park opening, there were a lot of great people there that morning to see that, it is a great improvement. I would also like to congratulate Sgt Phillips on his promotion and thank you to Captain Ron Walsh for 41 years of great service in the Newark Fire Department.

**President Ellington-** Thank you for all who attended tonight. City Hall will be closed Monday September 3<sup>rd</sup> so the next Committee meeting will be on Tuesday September 4<sup>th</sup> at 5:45 P.M. and City Council will meet at 7:00 P.M.

**ADJOURNMENT-** Motion by Mr. Cost, second by Mr. Fraizer