

COUNCIL MINUTES

October 17, 2022
Council Chambers
7:00 P.M.

President Ellington called the meeting to order

ROLL CALL - Mr. Rine, Mr. Barker, Ms. Bline, Mr. Harris, Ms. Hottinger, Mr. Houser, Mr. Labutis, Mr. Lang, Mr. Marmie, Mr. Rath

INVOCATION – Mr. Houser

PLEDGE OF ALLEGIANCE – Jacqueline Kiger, 1st Grade Par Excellence Academy

CAUCUS – Ms. Hottinger – I will need to abstain from 22-39 and 22-92

MINUTES of October 3 , 2022 - Motion to approve the October 3, 2022 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 **Motion by Mr. Labutis, Second by Mr. Harris, passed by acclamation**

APPOINTMENTS

There were none this meeting

REPORTS OF STANDING COMMITTEES

Finance **Received & Filed without objection**

Safety **Received & Filed without objection**

Capital Improvements **Received & Filed without objection**

Personnel - **Received & Filed without objection**

REPORTS FROM CITY OFFICIALS

City Auditor, Ryan T. Bubb – Operating report for period ending September 30, 2022

Brenda Cooper, Tax Administrator's Office – Income Tax Revenue Reports for period ending September 30,2022

COMMUNICATIONS

Licking County Commissioners – Notification of conforming boundaries of Village of Hebron and Union Twp., creating “Hebron Twp.”

Ohio Division of Liquor Control – Transfer application from Newarks gateway South Inc. dba Mill Wheel Tavern 150 National Drive, to Newarks Gateway South Inc. dba Mill Wheel Tavern, 495 Wherle Avenue, Newark, Ohio 43055

COMMENTS FROM CITIZENS

David Willis, 10412 Peatmoss Rd, - Why I am here today is to get an understanding of the leadership from a general direction for the city. I actually have a business, I own Maxine's Bargain Box in the Colonial Shopping Center. I've been in business for approximately 12 years. I made long term plans and through the pandemic was actually able to grow my business by 90 % over the last three years. The reason why I'm here also is, I know it's not a question and answer period, but in general, the easiest way I can describe this is that truth is in action not words and so to see actions or things occurring, there is truth in that. My question general for the Council is, is the direction of the City of Newark to become more of a sanctuary city versus some other. The reason for this question is, we have Intel moving in and that's going to result in a huge amount of business opportunity in this region, Johnstown, Granville, Heath and so forth. I'm basically looking at the direction the city is going so I can make plans for addressing my business for the long term. If the answer is yes, no big deal, I have my answer and can make adjustments for my business accordingly. If the answer is no, I want to be part of the solution, not the problem. As a result, I met with the wrong guy and we talked. If the answer is no, then I would like to meet with my Ward Representative and the 3 At Large to sit down for a one on one individual conversation to share information. To share information so you can find solutions, coming up here and just complaining about scenarios is not a solution. So that's it. So, is the direction to have Newark to become a sanctuary City for the area, if the answer is yes, then thank you and I will commence to plan accordingly for my business. If the answer is no, then I want to move forward to change the actions in my area relative to how it's impacting my business.

President Ellington – Thank you, we appreciate that. Everyone on Council is on the website, phone numbers etc. I guess just speaking for me, I don't think we are entertaining becoming a sanctuary city.

Jeff Molden, 494 Beacon Rd. – I have a couple things today. One is Main Street, does anyone know the timeframe for when that's going to be un-blocked. I know there are people still putting money into the development there, but at the same time that's a pain for the people in the city with that being blocked off there. The second thing is, I am a part of the Salvation Army Toy Run that is coming up and would just like to invite any of you to come out the first Sunday in November to Walmart in Heath to support it a little bit and if we could get the Newark Advocate out there it would be really nice.

ORDINANCES ON SECOND READING

By: Mr. Rath, Mr. Barker, Ms. Bline, Mr. Marmie, Mr. Labutis

22-39 AN ORDINANCE ACCEPTING THE DEDICATION TO PUBLIC USE OF THE STREETS IN CONOR'S PASS SUBDIVISION, PHASE 2.

Motion to adopt by Mr. Rath, Second by Mr. Harris, motion passed 9-0 with Ms. Hottinger abstaining

ORDINANCES ON FIRST READING

By: Mr. Lang, Mr. Labutis, Mr. Marmie

22-40-A AN ORDINANCE AMENDING THE DEPARTMENT AUTHORIZATION TABLES OF THE CITY OF NEWARK DEPARTMENT OF HUMAN RESOURCES AND CREATING THE POSITION OF *RISK CONTROL AND EDUCATION SPECIALIST* AND SETTING THE COMPENSATION THEREFORE
Held until November 7, 2022

By: Mr. Lang, Mr. Labutis, Ms. Bline, Mr. Marmie

22-41-A AN ORDINANCE AMENDING THE DEPARTMENT AUTHORIZATION TABLES OF THE CITY OF NEWARK DEPARTMENT OF SERVICE, DIVISION OF CEMETERY & PARKS AND CREATING THE POSITION OF *ASSISTANT SUPERINTENDENT* AND SETTING THE COMPENSATION THEREFORE
Held until November 7, 2022

RESOLUTIONS ON SECOND READING

By: Mr. Marmie, Mr. Barker, Ms. Bline, Mr. Rath, Mr. Labutis

22-89 A RESOLUTION AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF NEWARK TO PREPARE AND SUMIT TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) A ONE YEAR USE OF FUNDS/ACTION PLAN ALONG WITH AN APPLICATION FOR FY 2023 FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CDBG), AS REQUIRED BY 24 CFR PART 91.220, FOR VARIOUS PROGRAMS RELATED TO HOUSING AND COMMUNITY DEVELOPMENT.

Motion to adopt by Mr. Marmie, second by Mr. Lang, motion passed 10-0

By: Mr. Marmie, Mr. Barker, Ms. Bline, Mr. Rath, Mr. Labutis

22-90 A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (\$20,000.00 -monies from renter in Chase Building)(\$400,000.00 -Building maintenance/Grounds Improvements)

Motion to adopt by Mr. Marmie, Second by Mr. Lang, motion passed 10-0

By: Ms. Hottinger, Mr. Barker, Ms. Bline, Mr. Marmie, Mr. Rath, Mr. Labutis

22-91 CI A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (\$100,000.00 -Building Improvements and Main. Bldg. Grounds Chase Bldg.)

Motion to adopt by Ms. Hottinger, second by Mr. Barker, motion passed 10-0

By: Mr. Marmie, Mr. Barker, Mr. Labutis, Mr. Rath, Ms. Bline

22-92 A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE FOR THE CITY OF NEWARK, OHIO, TO ENTER INTO A LEASE AGREEMENT WITH PARK NATIONAL BANK FOR THE LEASE-PURCHASE OF ONE (1) MEDIC UNIT FOR THE DIVISION OF FIRE

Motion to adopt by Mr. Marmie, second by Ms. Bline, Motion passed 9-0 with Ms. Hottinger abstaining

RESOLUTIONS ON FIRST READING

By: Mr. Marmie, Mr. Labutis, Ms. Bline

22-93 Exp. A RESOLUTION APPROPRIATING MONIES FOR CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (\$47,500.00 -Payouts for retiring Officers Trent Stanford & Kevin Wells) (\$95,125.57 -Monies needed for cost of issuance for sale of note) (\$13,716.68 -monies needed for cost of issuance for sale of note)

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

Mr. Marmie – We have payouts for people who are retiring plus we have some money we need to appropriate for bills that are due.

Motion to waive two day reading rule passed 10-0

Motion to adopt by Mr. Marmie, second by Mr. Lang, Motion passed 10-0

By: Ms. Hottinger, Mr. Labutis, Mr. Marmie, Ms. Bline

22-94 CI A RESOLUTION APPROPRIATING MONIES FOR THE CURRENT EXPENSES OF THE MUNICIPAL CORPORATION (\$34,337.92 -replacement of aging mowers)

Held until November 7, 2022

COMMENTS FROM CITIZENS

Cody , 654 Mt. Vernon Road – I am actually looking at setting up a tattoo and art gallery on the corner of Hudson and St. Clair. One quarter of the space is for the actual tattooing and tattoo business, three quarters is for an actual art gallery, more of a cultural hub than anything. When I was getting ready to open this, I had a Health Inspector do a pre-screening, I've been installing hardwood floors and various things getting ready to open and I just got rezoned into the Downtown DC District. I love Downtown DC District, but Ordinance 10-22-C prohibits tattoo studios from opening in that area. As I was getting ready to open it got rezoned. I've already applied for the redistricting, but I'm looking at a 4 month timeline through things like this and the Planning Committee. I think it's the next one when I will get that moving forward, but I just wanted to introduce myself and get to know everyone. Also, the Ordinance itself, I feel like is federally illegal, unconstitutional. Tattooing, the act of tattooing, the tattoo itself is all protected by the First , Amendment Freedom of speech clauses, Federal courts have upheld this time and time again, there have been cases in Hermosa Beach and Mesa, Arizona, similar Ordinances have gone through in other cities and Federal Courts have upheld that tattooing is protected buy the first amendment. I not only would like to get this re-districted, but also get that Ordinance at least amended or thrown out completely. This is not just a tattoo studio, but for that purpose only I think it's unconstitutional to have an Ordinance like that in the City. That's pretty much everything for now, I'll be back with more information and would like to meet you all one on one and get to know you and have you get to know me.

MISCELLANEOUS

President Ellington – Janine and the Mayor, I would like to thank you for the nameplates, they look really great. Janine ordered them, the Mayor drilled them, so looking good.

Tricia Moore, Law Director – I just wanted to say thank you to Spencer Barker and Mark Labutis for meeting with me and talking about this noise ordinance and Beth Bline for all the input I thank you for that, I'm sure we'll be talking more about this later.

Mayor Hall – Just three things real quick. I appreciate the comments, I want to remind everybody, any time you want to write something down, send an email and direct it over to Janine, that can be part of the minutes, everyone sees all that. I just want everyone to understand, while we welcome you to come in and make comments, if it's not convenient to be here on a Monday night, you can surely get with Council Members, it can be done in a lot of ways any information, we all share that, so don't feel you have to be here and some people are not always comfortable speaking in front of people. Second of all, I think sometimes when you turn on the water and it comes out and seems pretty easy and simple. I think Roger proved tonight how busy our Water Department is with water, wastewater and storm water, I think we need to be extremely thankful for what we have with Roger and his entire team. I see it all the time because I'm involved and know the status of all these projects, but it's really amazing what they do. He know all that by heart, he's been nearly 40 years with us and we're all very appreciative. As I say you turn the water on and it all works fine, that seems great but there is a lot of work behind that constantly so we should be very proud of our systems. Finally, I'll address West main Street kind of quick. There is work done there every day through the work week, has been for a few months, it's all under the guidance of the Ohio EPA. That's who kind of comes in and directs us on what we have to do. The intent was to remediate asbestos, there was pipe wrap in that and after a fire that changes that a little bit. The Ohio EPA changed some of the rules and tightened them up on us, so the remediation went into about a 2 ½ month project and they are winding that down. That's the first thing that has to happen, then we can push in the outside wall and open up Main Street and remove the debris out the backside. Most people aren't; up in that area because of the street being closed, appreciate everyone's patience. There was one time they talked about a need to create negative pressure in that building, you may have seen they had to put plastic wrap over all the windows, which was a major process, thank goodness we went through that without any weather events, but it's highly regulated by the EPA and we have had to go through that. We anticipate and hope, no promises, but maybe in the next three weeks or so we can get the road back open, definitely before winter. We had thought August would be the time frame, but EPA came in and changed the rules and I petitioned all the way up to the Governor's office.

Mr. Rine – I just have a couple things. Regarding Resolution 22-99, I think we all support and ran on safety, we all want the safety of our citizens. I just want to make sure that we are crossing our T's and dotting our I's. I live on Clarendon, it's a cut through between Cedar and Buena Vista so I've seen multiple police chases, bike chases, escalade. Just the other day I was going into town on 16 going under the 13 bridge, I was in the left lane going 60 and the State Highway Patrolman was sitting there and I thought he pulled out on me, but he pulled out on a white Acura and he punched it. I do not know if he got him, so I feel like if we did have a FLOCK camera there, even if the Stately didn't get him,

the camera would've gotten the license plate. I'm a supporter of this Resolution, but I just want to make sure we are doing our due diligence.

Mr. Barker – I just would like to say a couple Thank You's to Joe Paul and his crew. There's been a house on 21st Street that kind of has a revolving garage sale/flea market every day and they got that taken care of as well as a safety concern in the far north part of the City a home had put a shed in their side yard on stilts and the neighbors were worried that a child could go under it and we would have an issue, so they've been extremely helpful this past two weeks in getting that taken care of with those citizens and making that safe in that area.

Ms. Bline – I too want to thank our NPD and I want to thank you for the partnership that's growing between the citizens. They really appreciate you and appreciate the Safety Director and like Mr. Rine I too want to make sure we do our due diligence and get as many questions answered as possible. I want to thank the Engineers Department for the new signs on Beacon. That's a high traffic neighborhood, a lot of traffic a lot of kids and so those new signs have really made a big impact. I'd like to thank Streets and property Maintenance. There's been a list of properties that the citizens have just consistently been going after and that's a new partnership too. The citizens are getting confidence in the process, who can they write, who can they petition to see change happen and it's a big deal because there's a shift happening. Citizens are coming out and are not afraid anymore and they're taking back their neighborhoods. They want that City partnership. I just want to thank the local businesses for contributing as well.

Mr. Harris – Mr. Willis I'll get with you after the meeting, but my answer would be no.

Ms. Hottinger – I made this announcement during committee when we were talking about the Special Improvement District, but for those of you who didn't hear it, the Annual Meeting of the Downtown Special Improvement District is November 9th at 6pm on the stage of the Midland Theater, we will go over the service we will be offering for the year coming up, so you can find out what the SID does in downtown and it's open to the public.

Mr. Houser – I was in New York the first time this FLOCK came to committee, I have a couple comments. I've talked to a few residents about this issue and have gotten two perspectives, one is I'm super excited that we are getting serious about crime and I had heard some concerns about privacy, but I think that most of the times the comments about privacy were made they were assuming there was an expectation of privacy while driving on public roadways and I don't think that expectation of privacy really exists. So, I'm definitely in support of that and excited that the police are being proactive against crime, I think it's great for the City and representing citizens of East Newark, I don't need to tell anyone here there is lots of crime in East Newark and any steps we can take to improve on that is going to be a great thing. Dave thanks for coming out, you did read the map wrong on that but we are all here to hear your inputs. On the sound Ordinance, Tricia thanks for letting us pepper you with questions, I appreciate the discussion and comments on that. Last thing, I organized a little cleanup on the East side bike path and Councilwoman Bline was out there with me and we had a bunch of residents out there so I want to thank Chance Patznick from the Parks Department, she loaned us a

truck and some supplies and we went out there and went to work. We didn't make it nearly as far as we intended, we could still see the part where we started when we ended, but we got rid of a whole lot of trash and it was great and we even had people come out of their houses near the bike path to help us because they were excited to see us out there, so thanks to Chance for that.

Mr. Labutis – I would like to thank Tricia for all the work she did on the noise Ordinance and thank the residents for coming out to give us feedback and ask questions.

Mr. Lang – Resolution 22-99 as has been talked about already, I continue to have concerns around FLOCK and bringing that into our community and they most definitely not related to my trust in the Police Department at all. Again it's about concerns allowing a for profit business to come into our community, collect information on the movement of our people throughout the community and then clearly, in my view, looking at the contract terms, have the ability to profit from that. I do think there is potential for other enhanced data collection down the road that we're not really protecting ourselves from, we talked about that last meeting as well. I also have concern about how the terms are set up in terms of the liability that FLOCK is taking on, they've done an overly protective job of making sure that their liability is limited for data breaches, so they are not really ultimately responsible for how our data is protected. I would just urge us to proceed with caution on this, I think we're still gathering information about what it is that FLOCK does and it seems to me there is still confusion about whether it tracks movement or doesn't track movement. So, I just think as a community we are moving along at a quick pace here on something that I think that when we look back we're going to regret.

Mr. Marmie – I need to call a Finance Committee meeting for November 7th. Mr. Willis I believe that you are in my Ward, so I will get with you. The Mayo already took care of Main Street. Cody, I guess the legislation and the constitutional right that you referred to was a complete ban of tattoo parlors. We restrict all kinds of businesses in our zoning all the time and it is not unconstitutional for us to restrict what type of businesses or what type of residential or multi-family housing is in certain areas of our municipality. So, it is not in violation of the constitution because we did not ban them. Matter of fact at one point in the city there was a proposal to ban billboards and we did not pass that legislation because it was teetering on that unconstitutional, so we did put restrictions on where they could be and how apart and so on and so forth. So, we are authorized to put restrictions on whatever type of business or freedom of speech or whatever it is within our municipality just to maintain some integrity of different areas within our community. I just wanted to clarify that a little bit. As far as the FLOCK, I guess first of all I wanted to just make sure that everyone is clear, 22-99, if it doesn't pass they can still get the FLOCK system because all it is, is just waiving competitive bidding. If it doesn't pass they can do it with competitive bidding it's just going to take them a little bit longer. It's already been passed that it's authorized, if somebody wanted to stop it, really the one you should be opposed to is the one that granted the grant funding for it, because that is the funding for it. So, if you are in disagreement, that is the legislation that will really allow them to do it. The legislation for the FLOCK system has already gone through, the only thing that has not yet is the funding and 22-99 they can do it with or without it. Just so you are aware of that. I too have some concerns about data breaches and things like that as far

as safeguards. I've always, here recently been taught, that most businesses, especially large organizations, what they do as far as data breach, they try to protect their data and do safeguards for it, but the most important part of their program now as far as data breaches is how we're going to handle it when it happens. Not if it happens, when it happens. It's next to impossible to protect data in today's society, we have all these hackers and everything else that's going on, so therefore we need to make sure that FLOCK has something in there as far as those data breaches and what could be handled and really their liability is none on that. The City would be liable for that. Finally, I just want to comment, the hottest topic that I have had with citizens is and it was at the last block watch we went to and Councilman Harris was there too. The homeless. It is really spreading, it is moving and there is not a part of the city that is not being impacted by it. It's happening in a negative fashion towards businesses towards residential housing. It has citizens scared and I think that we've all talked about things that need to be addressed in whatever manner and I heard a gentleman say action. We need to start taking action. I think that before the end of the year we need to make sure that something is addressed. That we should start the process of making sure that we put safeguards in our legislation to protect from it spreading and growing. We have a beautiful City and it's even getting better. We just need to make sure that we protect that integrity, make sure that it doesn't have that dark cloud hanging over it. I think that right now that is something that is probably the closest thing to putting that negativity in our community. We have future expansion coming our way, we have affordable housing just right around the corner, we have a lot of great things that are happening. We have to address that dark cloud.

Mr. Rath – I'll start off by calling a Service Committee meeting for the 7th. If you guys put new FLOCK cameras in the 3rd Ward, there is no doubt in my mind that they will record each and every license plate out there because those vehicles are moving at a snails pace. The Cherry Valley Bridge being closed is a mess, all kinds of issues. I know we've had increased truck traffic, semi traffic on River Road. We've had a lot of 4 way stops in the Country Club area. Traffic backed up on 30th Street from 30th Street to Church Street and 30th Street all the way to Heath. The hospital signs that are directing people to the hospital are now void because that road is closed and that's something else that need to be addressed. It is without any doubt a cluster. Absolute FUBAR, so hopefully we'll find a way to make it better out there. It definitely needs it. I'd like to thank Mr. Mauter, I asked him for something today and it was a matter of seconds before it was in my in box. Maybe minutes, but none the less I appreciate the quick response. I look forward to the continued conversation on the noise Ordinance.

President Ellington – The big topic of conversation the last week and a half with folks is with the federal people ODOT and Mr. Rath closing down the Cherry Valley Road bridge. On a lighter note, I know the Mayor and the Engineer and the Service Director, I think are working tirelessly on a fix. So, hopefully we'll have that very soon, I think the two year fix is out, I think it's getting close, so hopefully we'll hear about that soon. Our next meeting is November 7th, 5:45pm Committees, 7:00pm for Council. Stay tuned for about 3 minutes after this we'll go back to the Safety Committee and talk about the noise ordinance and Capital Improvements after that. Two committee to go.

ADJOURNMENT Motion to adjourn by Mr. Labutis, second by Mr. Harris, passed by acclamation

Don Ellington, President of Council