

**MINUTES
REGULAR MEETING OF COUNCIL
CITY OF MENTOR-ON-THE-LAKE
January 13, 2009**

The Regular Meeting of Council of January 13, 2009 for the City of Mentor-on-the-Lake, Ohio, was Called to Order by Council President, Dale O. Langbehn, at 7:00 p.m.

CALL TO ORDER: PLEDGE OF ALLEGIANCE

ROLL CALL: Andrew M. Rose, Vice President (excused)
Aye: David R. Eva
Aye: Susan M. Shirley
Aye: Sharleen Connolly
Aye: Troy D. Elam
Aye: John Hawkins
Aye: Dale O. Langbehn, President

READING OF MINUTES: December 9, 2008 – Regular Meeting of Council

MOTION MADE BY MR. EVA, Seconded by Ms. Shirley, to approve the Minutes for the December 9, 2008, Regular Meeting of Council, as submitted by the Clerk. **ROLL CALL:** Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

READING OF MINUTES: January 2, 2009 – Organizational Meeting of Council

MOTION MADE BY MRS. CONNOLLY, Seconded by Ms. Shirley, to approve the Minutes for the January 2, 2009, Organizational Meeting of Council, as submitted by the Clerk. **ROLL CALL:** Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

CORRESPONDENCE:

Council Member Elam wanted to confirm that all Members of Council received a copy of the letter from Angie's Pizzeria. Council President Langbehn said that all Members of Council did receive a copy of this letter and would suggest that Council discuss this under New Business.

ADMINISTRATIVE AND DEPARTMENT HEAD REPORTS:

Mayor and Safety Director – Mayor Rogers

7:03 p.m.

Swearing in of Robert Higginbotham as Part Time Patrol Officer for the City of Mentor-on-the-Lake, Ohio.

7:05 p.m.

Swearing in of Kevin Watts as Part Time Patrol Officer for the City of Mentor-on-the-Lake, Ohio.

Mayor Rogers reported that Resolution No. 2009-R-01 pertains to the use of submerged land at the west end of Twilight Drive. Mayor Rogers said there is an old lift station there and at one time they attempted to abandoned it but it was too cost prohibitive to do so, they will shore it up. In order for the Dept. of Utilities to do that, they will require that this piece of legislation be adopted.

Also, pertaining to Resolution No. 2009-R-02, Mayor Rogers stated that Chief Mahoney advised him that they were in need of radio parts which they are no longer able to acquire. Mayor Rogers said he is hesitant about making purchases in this area because they are not certain what is going to happen within the County regarding this matter. Mayor Rogers said that Bettsville Fire Department had an excess of these radios, so this Fire Department was willing to do an exchange for our older SCBA's for these radio parts. Mayor Rogers said that this Resolution reflects this transaction.

Mayor Rogers said he gave a memorandum to Council President Langbehn regarding the over weight truck issue. Mayor Rogers asked that Mr. Langbehn assign this to the Ordinance Committee for their review. There is a ¾ ton weight limit, and Mayor Rogers said they have identified approximately 40 individuals in the community that have trucks in excess of that amount on their premises. Mayor Rogers said they need to either look into amending the zoning code to allow a greater capacity vehicle, or Council may decide not change the code at all.

Mayor Rogers has asked the Law Director to present to Council legislation pertaining to a Nuisance Ordinance. He said that often times they are called a multitude of times to a home, specifically if there is a problem regarding a barking dog.

Additionally, Mayor Rogers said he has asked the Police Chief to review our Codified Ordinances with respect to the individual codes that might be considered applicable within the language of the legislation. He anticipates this draft legislation being completed for the next meeting of Council at which time Council can determine to first place into committee prior to its first reading.

Mayor Rogers stated that he had the opportunity to speak to Members of Council prior to this meeting, and he will notify the Lake County Planning Commission of the various Council Committee/ Board assignments.

Mayor Rogers also advised Council that the Administration is in the process of working on the current budget.

Administrative Director – Mr. Molenaar (no report)

Law Director – Mr. Lyons (no report)

City Engineer – Mr. Sayles (no report)

QUESTIONS TO ADMINISTRATION AND DEPARTMENT HEADS:

Council Member Elam said he wanted to let Mr. Sayles know that the grate has been placed over the drain that has been an ongoing topic. Mr. Sayles said that ODOT has notified the contractor that the grate was place upside down, and they will be correcting this problem.

Mayor Rogers advised Council that a copy of the Resolution that was passed by Council thanking the business owners for their cooperation during the Andrews Road Project was sent out to all licensed businesses with their business license renewal package.

Council President Langbehn asked if there is still a punch list remaining to be completed on the Andrews Road Reconstruction Project. Mr. Sayles said he believes there are a few items remaining as the contractor is not 100% complete.

BOARD/COMMITTEE/COMMISSION REPORTS:

Board of Zoning Appeals / Meeting of December 15, 2008 / Mr. Eva

The Board of Zoning Appeals met on Monday, December 15, 2009 at 7:00 p.m. Members present were Dave Brazus, Ed May, Al Beuscher, David Eva, and Service Director Mr. Bailey.

(BZA Report / continued)

The purpose of the meeting was a Public Hearing for Mark Maltry at 7759 Manor Drive for a variance per Ordinance 1244.05 (C)(3) to build a deck requesting a 31 foot rear yard set back in lieu of the required 40 foot set back.

Mr. Maltry was not present for the hearing. After discussion the Board decided on a vote of 4/0 to grant Mr. Maltry a 20% variance on the deck. This would give Mr. Maltry a 32 foot rear yard set back instead of the required 40 foot set back.

The meeting adjourned at 7:20 p.m.

Fire Dependency Board / Meeting of January 13, 2009 / Ms. Shirley

The Fire Dependency Board met on January 13, 2009 at 6:30 p.m. Chief Mahoney reported to the Board that there were no fatalities and no major incidences or injuries in the year 2008.

OPEN TO THE PUBLIC TO SPEAK: 7:18 p.m.

Mary Zimmerman – 5595 Chagrin Drive – Mentor-on-the-Lake, Ohio

Ms. Zimmerman said she is here this evening to discuss the problem of barking dogs. She has had problems for the last five years with the same household and four very loud collies that are kenneled outside. She has done everything possible to get the matter handled to writing letters, making phone calls, to making arrangements with the Mayor and Chief of Police to find out what she can do. Chief Doran asked for her to call every single time there is a barking dog. She said this goes on in the morning to late at night. Ms. Zimmerman said she is very well aware of how animals should be handled and trained. Last Sunday she called as they were out there for over an hour barking and thought this would be a good time to call. The officers showed up and she was told there was nothing they could do because they were not barking at night. Ms. Zimmerman said there is no time limitation on the ordinance for barking dogs. Also, she was told this was not unreasonable. Ms. Zimmerman said there are four large dogs there barking, and the officers were in their vehicle with the windows up. This has been going on for such a long time; Ms. Zimmerman said she does not know what the owner can do now. Initially the owner told her she was keeping the dogs for protection. On Halloween night, Ms. Zimmerman said the dogs were totally out of control. She said this is such a nuisance, and was very frustrated when the one officer seemed totally disinterested in this problem.

Ms. Zimmerman said she has no place to go but to ask those who run the City for their help. Every time she tries to work this matter out through the proper channels, nothing seems to happen. Ms. Zimmerman said her concern is the ordinance, but the Chief did tell her they are reviewing the ordinance to recommend changes.

Mr. Langbehn asked if she has been able to talk to the owners of the dogs. Ms. Zimmerman said the dogs are not sociable and the owners do not walk them. She has suggested to the owner to play with dogs or walk them. It is her understanding that she does not have a kennel permit.

Mr. Langbehn said that from what Ms. Zimmerman described it would be difficult for the City to do a whole lot, but they will take this under advisement, and perhaps look at the noise ordinance. Ms. Zimmerman said the noise ordinance is what she is referring to now. She said that ordinance specifically said that habitual barking dogs are considered a nuisance. She said that if citations were a regular part of this that perhaps this would all stop. Ms. Zimmerman said if there are no consequences why should they stop doing this. She understands that the Chief has called the owner of the dogs and other officers have stopped by her home to talk to her about this matter, but she continues to do exactly as she pleases with her dogs.

Council President Langbehn said they will address the matter, and have the Administration get back to her. Mr. Langbehn said they will assign this to committee to see if they can strengthen the ordinances that cover this matter.

Ms. Zimmerman said that strengthening them would be fine, but it is the enforcement that she is concerned about.

Council Member Elam said it is his understanding under this ordinance, as explained to him by a police officer, is that the seconded or third call they receive an individual can be cited. Mr. Lyons said the police officer that was there on Sunday based his decision on what he personally heard and his exposure to the problem. Mr. Lyons said he feels the police are handling this correctly. He said he will speak to Chief Doran on this matter.

Council Member Hawkins said that sometimes you get ones attention if they have to go to court two or three times on a matter. He said the standard for the police is probable cause.

Ms. Zimmerman said the last time she called the police the officers never got out of the vehicle. Mr. Hawkins said he is curious why no one else is here complaining about this problem. Ms. Zimmerman said she has been asking for five years for something to be done.

Council Member Elam said the codes allows for citations to issued under these circumstances. He said that he had a conversation with another person this week who were very offended by the way police officer talked to them when they called about a legitimate issue. Mayor Rogers asked that Mr. Elam give him that information. Mr. Elam said his point is that Mr. Hawkins asked the question as to why no one else is here complaining. Mr. Elam said he asked why they don't go and report it and he is told it will not do any good.

Mr. Elam said there is enough on the books to issue citations under these situations. Mr. Elam said if this is not done it is not Council's call but the Police Department's call. Mr. Elam said he not being critical, but there is enough on the books to issue citations up to a certain point.

Council President Langbehn assured Ms. Zimmerman that Council and the Administration will look into this matter for her.

CLOSED OPEN TO THE PUBLIC SECTION: 7:39 p.m.

LEGISLATION BEFORE COUNCIL:

RESOLUTION NO. 2009-R-01

A RESOLUTION APPROVING THE USE OF SUBMERGED LAND AT THE WEST END OF TWILIGHT DRIVE AND, DECLARING AN EMERGENCY.

MOTION MADE BY MR. EVA, Seconded by Ms. Shirley for Suspension of the Rules.
ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

MOTION MADE BY MR. EVA, Seconded by Mrs. Connolly for Passage. ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

RESOLUTION NO. 2009-R-02

A RESOLUTION APPROVING AN EXCHANGE OF EQUIPMENT BY THE MENTOR-ON-THE-LAKE FIRE DEPARTMENT AND THE VILLAGE OF BETTSVILLE FIRE DEPARTMENT AND DECLARING AN EMERGENCY.

MOTION MADE BY MR. EVA, Seconded by Ms. Shirley for Suspension of the Rules.
ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

MOTION MADE BY MR. ELAM, Seconded by Mr. Eva for Passage. ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

RESOLUTION NO. 2009-R-03

A RESOLUTION OF SUPPORT OF NOPEC'S CONTINUATION OF THE ELECTRICAL DISCOUNT PROGRAM.

MOTION MADE BY MR. EVA, Seconded by Mrs. Connolly for Suspension of the Rules. ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

MOTION MADE BY MRS. CONNOLLY, Seconded by Ms. Shirley for Passage. ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

ORDINANCE NO. 2009-O-01

AN ORDINANCE LEVYING LIENS FOR EXPENSES INCURRED FOR LAWN MAINTENANCE AND/OR CULVERT REPAIRS, AND DECLARING AN EMERGENCY.

MOTION MADE BY MS. SHIRLEY, Seconded by Mr. Eva for Suspension of the Rules. ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

MOTION MADE BY MR. EVA, Seconded by Ms. Shirley for Passage. ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

OLD BUSINESS:

Adoption of Council Rules:

Council President Langbehn said he would hold off on addressing Council Rules until all Members of Council are present. He said there are a few things within the Rules to be addressed. One issue to be addressed is that he feels that it should be stated in the Rules that whenever a Member of Council cannot attend their committee or board meeting that the President or Vice-President can attend for them. Also, there is the issue regarding the rotation system for President and Vice-President of Council.

NEW BUSINESS:

Council Member Elam said that he does not want to be misunderstood in his prior comments. He in no way was being critical of our Police Department. Mr. Elam said we have good officers and a good Police Department who do a good job. He said he wants it to be known he is not criticizing the Police Department, he is simply stating that what they need for enforcement is already in place.

Council Member Elam said he wanted to make a brief statement regarding the temporary sign ordinance. He drove past Angie's Pizzeria last weekend and he noticed a menu sign in the back of a pick up truck. Mr. Elam said he was embarrassed to see that we are forcing our business owners to come up with less than professional ways to advertise their business because we simply refuse to deal with the temporary sign ordinance. Mr. Elam said we use the temporary sign ordinance to enforce a menu board sign ordinance which is not the same thing. He said he was going to stop into talk to the owner, as he does not know them, but he feels this should be addressed. Mr. Elam said we should allow our businesses the freedom to advertise from opening to close. He feels the letter from Angie's Pizzeria is well written. Mr. Elam said he feels this matter should be address as we need to find an answer to this ongoing problem.

Council President Langbehn assigned the matter of the temporary sign ordinance to the Ordinance Committee for their review. Mr. Langbehn said we certainly do not want to discourage our business owners in the community especially in these tough economic times.

Council Member Hawkins said that every year this issue comes up. He said if this is so valuable to one's business, he cannot understand why they do not put up a permanent sign. He feels if the temporary sign ordinance is eliminated, it would cause unsightliness within the community. Mr. Hawkins said this is perplexing to him.

Council President Langbehn assigned the issue of the over weight truck issue to the Ordinance Committee as well as the nuisance/noise ordinance matter.

Mr. Langbehn said that the Council Committee Assignments will remain the same as in 2008.

Mayor Rogers that if there is a problem wherein an employee is not conducting themselves appropriately or professionally, he would hope that this would be brought to his attention. He cannot address an issue if it is not brought to his attention. Mr. Elam said he concurs with what the Mayor is saying.

ANNOUNCEMENTS AND SETTING OF MEETINGS:

Agenda Meeting of Council	January 22, 2009	6:00 p.m.
Regular Meeting of Council	January 27, 2009	7:00 p.m.
Parks & Recreation Board	January 29, 2009	7:30 p.m.

ADJOURNMENT:

MOTION MADE BY MR. EVA. Seconded by Ms. Shirley for Adjournment. ROLL CALL: Ayes: Council Member Eva, Shirley, Connolly, Elam, Hawkins, Langbehn. Nays: None.

MOTION CARRIED: 6/0

The meeting adjourned at 7:55 p.m.

APPROVED:

Date

Dale O. Langbehn
President of Council

Attest: _____
Clerk of Council