

NEW PHILADELPHIA CITY COUNCIL MET IN REGULAR SESSION IN COUNCIL CHAMBERS ON AUGUST 25TH, 2014 WITH PRESIDENT OF COUNCIL, SAM HITCHCOCK, PRESIDING.

(* REVISED-please review Safety, Health and Service Committee Report- Page 4.)

MR. HITCHCOCK OFFERED A PRAYER AND ALL IN ATTENDANCE RECITED THE PLEDGE OF ALLEGIANCE.

PRESIDENT OF COUNCIL, SAM HITCHCOCK ANNOUNCED:
TODAY IS THE 41ST WEDDING ANNIVERSARY OF OUR MAYOR AND HIS LOVELY WIFE NANCY. EVERYONE APPLAUDED.

COUNCIL MEMBERS IN ATTENDANCE:

- MS. SANDY COX
- MR. DAN LANZER
- MR. LAUTENSCHLEGER
- MR. ROB MAURER
- MRS. CHERYL RAMOS
- MS. WINNIE WALKER
- MR. JOHN ZUCAL

PRESIDENT OF COUNCIL, SAM HITCHCOCK ANNOUNCED, SAFETY DIRECTOR, MR. GREG POPHAM HAS AN EXCUSED ABSENCE FROM TONIGHT’S COUNCIL MEETING.
PRESIDENT OF COUNCIL, SAM HITCHCOCK ALSO ANNOUNCED TREASURER, MR. AARON HILLYER IS ABSENT FROM TONIGHT’S COUNCIL MEETING.

MS. COX MADE A MOTION TO ACCEPT TONIGHT’S AGENDA
MR. LANZER SECONDED THE MOTION.

ROLL CALL 7 YEAS
MOTION PASSED

MS. COX MADE A MOTION TO APPROVE THE MINUTES FROM THE REGULAR COUNCIL MEETING HELD MONDAY AUGUST 11TH, 2014
MS. WALKER SECONDED THE MOTION.

ROLL CALL, 7 YEAS
MINUTES WERE APPROVED

CORRESPONDENCE CLERK, PATRICIA A. MCKAY

1. Marvin Fete New Philadelphia City Law Directors report Dated August 25th, 2014 for Cheryl L. Ramos Re: issues raised in email correspondence of 8-24-2014.
2. Mayor’s Report to Council August 25th, 2014
3. Special and Contact Committee Meeting Minutes from Monday, August 11th, 2014
4. Public Works and Economic Development Committee Meeting Minutes from Monday, August 11th, 2014
5. Zoning and Annexation Committee Meeting Minutes from Monday, August 11th, 2014
6. City of New Philadelphia Income Tax Department “July 2014 Report Month End Tax Revenue by Year” from Joel Day, Income Tax Administrator.
7. Letter from Cheryl L. Ramos, Ward I City Councilperson, dated August 23rd, 2014 to Sam Hitchcock, New Philadelphia City Council President.

“Dear Mr. Hitchcock,
During New business at the Council Meeting on March 10, 2014, I raised the issue of the City of New Philadelphia becoming truly transparent regarding public records for our residents and taxpayers. As per your direction and the direction of the Law Director, I sent a letter, dated March 19, 2014, to Mayor Dave Johnson regarding my request. At the March 10th Council Meeting I was advised by you and Marvin Fete, Law Director to ask this issue be addressed by Council if there was no action from the Mayor.

I am following through with those instructions. In the pursuit of true, accessible transparency, I request that the issue of posting the following on-line be assigned to the appropriate committee: consistently posting proposed agendas (in advance); proposed ordinances (so the public can comment); the budget, all salaries;

benefits, including health care costs (to the employer and what the taxpayer is paying towards employee health care); pensions; pension pick-up; overtime; longevity; bonuses; uniform allowances; departmental budgets; and union contracts be posted on the City website in an accessible way for the taxpayer. The residents have a right to know exactly how their money is being spent.

Council has made a start with posting Committee Meeting Minutes on-line. This resolution was made last month. It is a welcome step towards true, accessible, transparency for the public we serve.

I realize that this may not be done all at once. The City does have the capability to start posting all the information on-line in increments. I feel that consistently posting agendas; proposed ordinances and the budget, would be the next logical and easy step.

The other information is available and can be posted. Moving towards true, accessible transparency is vital for good governance. The City has talented staff that can make happen these steps toward transparency and accountability.

Our goal as elected officials should be to best serve the residents and be excellent stewards of taxpayer money. This requires accountability. Posting public information on-line promotes accountability and transparency.

Thank you for having this issue assigned to the appropriate Committee and action taken in a timely manner.”

Sincerely,
Mrs. Cheryl L. Ramos
Ward One
New Philadelphia City Council

ADMINISTRATIVE REPORTS:

MAYOR'S REPORT/REQUESTS....MAYOR DAVID JOHNSON

The Mayor addressed the following:

1. The Mayor reported he Swore in Nic McCoy as the new Firefighter/Paramedic with our Fire Department.
2. The Mayor had a meeting with Law Director Fete.
3. Mayor Johnson met with Aultcare Wellness representatives to review our 2013-14 Wellness Program and the results.
4. Met with Councilperson John Zucal and Fire Chief Parrish.
5. Attended the annual employee picnic and had a very nice time.
6. Received a report on the disciplinary hearings.
7. Conducted meetings throughout the day on disciplinary hearings.
8. Accepted the resignation of Mark Henke. He will definitely be missed. He said he would be available to train someone on the traffic lights. (He will be paid as a consultant)
9. Terminated two Sanitation employees.
10. Attended the monthly CIC meeting.
11. Met with Quicksall and Associates regarding Wastewater.
12. Attended an OMEGA meeting at the Millersburg Brewing Company and discussed new ideas for downtown.
13. Mayor Johnson attended the NPBCA Board of Directors meeting. Upcoming events are:
Annual Car Show on Saturday, September 6th, 2014
(Registration will begin at 3:00 PM and run until about 9:00 PM)
The Art Walk is scheduled for Saturday, September 20th, 2014 6:00-9:00 PM.
14. The Mayor helped clean out the basement of the Convention and Visitors Bureau.

“I would like to ask City Council to accept the purchase of the land for the fire station and to make the first payment from the Land Acquisition Fund.”

Mayor Johnson received the following which he read to all in attendance.

“A letter from James A. Friel, Mayor of the Village of Newcomerstown, expressing his deepest appreciation on behalf of his Village and the Grewell Family For the support that we received for our divers from the New Philadelphia Fire and Rescue. The tragedy our City experienced, the support received helped ease the pain and suffering the Family was going through. It is always a good feeling knowing that there are resources from our communities when in need. All departments involved did a great job and were very professional. Thank you New Philadelphia Fire and Rescue for providing assistance during the tragic time.”

Mayor Johnson applauded New Philadelphia Fire and Rescue and commended the Fire Chief.

The Mayor replied on the issue of the transparency, regarding public records for our residents and taxpayers.

“I stood up here after you gave me the letter and explained that we have record request laws which is crystal clear if they need information they can get it. Putting it out in front of everyone is not transparency, it is lunacy.”

The Mayor thanked Mrs. Ramos for her suggestions and stated that he did respond.

Comment from Councilperson Ms. Cox:

You are making the first payment from the Land Acquisition Fund are we talking about Master Capital?

Mayor replied:

There was a fund that you said that we had for Land Acquisition.

Reply from Councilperson Ms. Cox

That Fund was Master Capital.

Councilperson John Zucal:

“In our Committee Meeting which will be held September 8th, 2014 that would be the point of discussion. Do we want to make that first payment out of the Land Acquisition Fund part of the Master Capital?”

That is an administrative function and Mr. Zucal requested that the Mayor make a recommendation as to what he believes would be appropriate for payment of that.

SERVICE DIRECTOR.....MR. JAMES ZUCAL

The Service Director reported on the following:

Service Director reported:

- The West High Avenue Widening Project is progressing well.
Service Director complimented the Mayor who has been actively involved in all our projects. Physically went out to the job sites and talked to the Superintendents and Contacts involved. We are working with them closely to do a quality job and actually expedite for the City and our traveling public. Service Director reported traffic delays have been a minimal and reminded everyone September 15th, 2014 is the first day of the 60 day closure. We hope we will get this project wrapped up this year.
- Service Director reported the CDBG Project on Tuscarawas Avenue is finished.
We will do the final walk through tomorrow and do the contractors punch list. It is very well done, we have seen a lot of improvements in that area those are grants that we receive for a community of a small City. We receive the grants with hard work and team effort.
- We are preparing for the NRG (Neighborhood Revitalization Grant) for next year. We will be partnering with New Philadelphia Schools we've worked on it for two years we finally got it.
- We have seen some additional revenue from water taps whether inside the City or outside the City. We've had 2, 6, 8 inch water taps. Which not only tap alone but the revenues from the sale of water is helping our Water Department in our Water Income Fund. Recently the State Troopers Barracks on East High secured water services from the City.
- We provide the same quality service as always; patching pot holes, doing tree work, picking up extra trash and doing our daily trash that we would do normally. The guys are doing a fantastic job.
- The Service Director requested Oak Shadows Phase V, which was a residential allotment consisting of five lots in Oak Shadows area the developer REM Construction is preparing to move forward and would like the City to accept that final plat.
The Service Director requested the President of Council assign this to Committee.

Comment from Councilperson John Zucal:

Note of thanks to the City, the Service Director, and the Mayor and all of the folks involved have done to secure CDBG and the money for the NRG for West School. New Philadelphia City Schools are deeply appreciative of that. It will provide a much safer environment for our students.

The Service Director reminded everyone that is infrastructure improvement with water and storm water but also includes the bus turning lanes to improve safety for the students in that area.

The Service Director reported a lot of good things are happening on the west end.

Mr. Zucal reported that he and the Mayor have worked with some of the developers on the Economic Team. The Service Director encouraged everyone to look at Market Place Commons, the new street that was put in with City specifications.

AUDITORMS. BETH GUNDY

The Auditor reported the change in the Income Tax Department: the most Senior Clerk has retired from her position it was filled by Part-Time Clerk who was already in the Income Tax Office. The Auditor reported at this point in time, we are not replacing the Part-Time Clerk's position, so we are saving a few dollars there.

SAFETY DIRECTOR.....MR. GREG POPHAM.....NO REPORT
EXCUSED ABSENCE

TREASURERMR. AARON HILLYERNO REPORT

President of Council, Sam Hitchcock announced that the Treasurer, Mr. Hillyer is absent from tonight's meeting.

LAW DIRECTORMR. MARVIN FETE

The Law Director reported the following:

- The Law Director, informed Council he spent a lot of time addressing and putting in writing Mrs. Ramos questions raised in an email Correspondence dated August 24th, 2014 which he distributed a copy to all Council. The issues were general questions in regard to the sunshine law, executive session, and land acquisition contract.
- On the 18th the Law Director promoted Attorney Heidi Sanner, who had been working for the Prosecutor's Office for a couple of years as an Independent Contractor and paid out of the his budget in the Law Directors Office.
Mr. Fete made her, after the retirement of Mr. Nemitz , a full time Prosecutor making the exact same salary as Nemitz.
We did not hire someone for our part-time person so he allocated some of the money to the attorneys because of the amount of work they will be doing. Mr. Fete reported we are going from four attorneys to three. At this time, he doesn't require any additional funding from Council. (If he does need additional funding he will come to Council.)
Right now they are going to use the funds they are not using for part-time people to compensate the attorneys for the extra amount of work they are going to have to do.
Since we are not hiring a part-time person we will be able to use those funds and at this time won't require any additional funding from Council. It won't cost the taxpayer a dime.
- The Law Director issued a legal opinion on sick leave for the retiring position in the Auditor's Office. That was sent to Joel Day in regard to sick leave and what the contract interpretation of what it says for part-time employees.
- The Law Director spoke with the Times Reporter in regard to the Huth case and what his involvement is on behalf of representing the New Philadelphia Municipal Court.
- The Law Director reported that he had a number of meetings with the Mayor regarding some personnel issues. Mr. Fete gave the Mayor the benefit of his opinion on the issues.
- The Law Director reported he received a number of calls on the Fixed Base Operator's Position. Mr. Fete has spoken with Attorney Steven Anderson, who is present, on the issue.
What the Law Director has expressed is that he takes his walking orders from the Airport Commission on this.

BOARD/COMMISSION REPORTS:

PLANNING COMMISSION.....MAYOR DAVID JOHNSON

Mayor Johnson announced the Planning Commission Meeting scheduled meeting is Tuesday September 9th, 2014 at 1:00 PM in in Council Chambers. There is one item as of now to discuss. (Private drive)

BOARD OF ZONING APPEALS.....MR. JAMES ZUCAL

Mr. James Zucal announced for the September Board of Zoning Appeals Meeting, as of now there are no variance requests.

AIRPORT COMMISSION.....MR. JOHN ZUCAL

Mr. Zucal announced the Airport Commission next scheduled meeting is Tuesday, September 9th, 2014 at 6:00 PM in the Airport Meeting Room.

PARK BOARD.....MR. DARRIN LAUTENSCHLEGER....NO REPORT

HEALTH BOARD..... MS. SANDY COX

Ms. Cox announced that the next scheduled meeting for the Health Board is Wednesday, September 10th, 2014 at 12:00 (Noon) at the Health Department.

STANDING COMMITTEE REPORTS:

FINANCE COMMITTEEMS. SANDY COX

Ms. Cox reported that the Finance Committee met tonight at 7:00 PM in Council Chambers with 2 items to discuss.
First Item: Resolution 28-2014

Resolution accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor.
This resolution is the rate of each tax necessary to be levied within and without the ten mill limitation.

Schedule A: Summary of amounts required from General Property Tax approved by Budget Commission and County Auditors Estimated Tax Rates.

Amounts approved by Budget Commission inside 10 mill limitations-

General Fund	\$990,700	(3.20 M)
Police Pension Fund	\$92,900	(.30 M)
Fire Pension Fund	\$92,900	(.30 M)

Schedule B: Levies outside 10 mill limitation, exclusive of debt levies.
There is none.

Second Item:

The Finance Committee met for the third time to examine the Personnel Policy and Procedure Manual. Reviewed was Chapter 5 "Employee Benefits" (pages 52 through 79)
Several questions were asked and the meeting was adjourned at 7:30 PM.

SALARY COMMITTEEMR. JOHN ZUCAL

Mr. Zucal announced that the Salary Committee will meet Monday, September 8th, 2014 at 6:30 PM here in Council Chambers. We will be discussing movement on the recommendation made by our Mayor this evening, to utilize the funds from Master Capital Land Acquisition Fund for the first payment on the area that was designated for the new Fire Station. We will also be meeting to act upon the commendations scheduled for Ms. Baker and Mr. Nemitz that were previously assigned to the Committee.

SAFETY HEALTH & SERVICE COMMITTEE.....MR. ROB MAURER

Mr. Maurer reported that the Safety Health & Service Committee met this evening at 6:15 PM in Council Chambers to discuss a Mutual Aid Contract with York Township.

*August 25th, 2014 Council Minutes were amended on September 8th, 2014 under the agenda to reflect the following request. Mr. Maurer requested the following sentence be removed from August 25th, 2014 Minutes.(Fire Chief Parrish stated the York Township does not have a Fire Department and can't afford one.)

***Revised and Corrected to: Fire Chief stated the York Township has a Fire Department but will add an extra layer of protection. A motion was made by Ms. Cox to accept the changes and seconded by Mr. Maurer. Roll call 7-0 the August 25th 2014 minutes were amended.**

The City has been responding to their calls for several years without any type of reimbursement.

Parrish noted that they respond to four structure fires and two automobile entrapment calls per year.

The Chief estimates it costs the department around \$200-300 in overtime per call.

Chief Parrish outlined what the contract entailed.

The City of New Philadelphia shall:

- Furnish Mutual-Aid Fire Protection when available to residents of York Township.
- Respond immediately to all notifications of structure fires and request for rescue.
- Fire Service the City would also supply, furnish, and respond with fire vehicles, equipment, and manpower when available.
- Rescue Service respond to motor vehicle/machinery Accident Entrapment
- Supply, furnish, and respond with rescue vehicles, equipment, and manpower when available.

York Township has agreed to pay the City of New Philadelphia \$2,000 annually plus \$50 for each Fire Safety Inspection. (The contract is good for twelve months.)

The Committee has recommended that the contract be put in ordinance form, put on the agenda for the September 8th, 2014 meeting, read for three readings and ask for passage.

PUBLIC WORKS & ECONOMIC DEVELOPMENT COMMITTEE ...MR. DARRIN LAUTENSCHLEGER.....NO REPORT

ZONING & ANNEXATION COMMITTEEMRS. CHERYL RAMOS....NO REPORT

President of Council Sam Hitchcock assigned to the Zoning & Annexation Committee the Oak Shadows Plat V request from the Service Director.

Also regarding the letter that was read earlier the President requested that it be read so Council would have the full impact of what your request was.

Comment from President of Council Sam Hitchcock:

I pretty much agree with the Mayor, assigning things to the website is an Administrative function. But after consultation with the Law Director, out of the respect for Councilperson Ramos I also understand that it can be put into a Committee for recommendation of mandatory posting of certain documents. Seeing how you have a strong interest in this I would like to put this issue in your Committee. I expect your Committee to meet on this as soon as you can and present your recommendations what documents, if any, you would recommend to full Council to have posted on the website.

SPECIAL & CONTACT COMMITTEE MR. DAN LANZER

Mr. Lanzer reported that the Special & Contact Committee met this evening at 6:30 PM in Council Chambers with two items to discuss.

First Item: The Notice to Council from the Ohio Division of Liquor Control Dated August 4th, 2014 for Red Lobster Hospitality LLC, DBA Red Lobster #564, 255 Graef Road SW, New Philadelphia, Ohio 44663 From N and D Restaurants Inc. DBA Red Lobster #564, 255 Graef Road SW, New Philadelphia, Ohio 44663 for type TRFO, Permit Classes D1, D2, D3, and D6 Permit Classes and asking that Objections be made no later than September 4th, 2014

After a short discussion:

The committee recommended Council approve and authorize the Clerk of Council to sign her name and title, Date and designate we do not request a hearing for the notice and mail to Ohio Division of Liquor Control, 6606 Tussing Road, P. O. Box 4005, Reynoldsburg, Ohio 43068-9005 Before the due date

Mr. Lanzer made a motion to vote on the Committee’s recommendation Ms. Cox seconded the motion.

Roll Call 7 yeas
Motion passed

Second Item:

The Maintenance Agreement for the NP2R Trail

After a discussion the Committee recommended by a 3-0 vote to move this legislation along to Council have Resolution 27-2014 put on the agenda for the September 8th, 2014 Council Meeting for the 1st Reading.

Resolution 27-2014

Whereas, the City of New Philadelphia, Ohio recognizes the the NP2R Trail will create more a livable, healthy and sustainable community, which in turn will attract more business and economic development; and

Whereas, the City of New Philadelphia, Ohio supports the development of the NP2R Trail, which once developed will be turned over to a non-profit 501C3 group for all operation and maintenance purposes.

Now therefore, be it resolved by the Council of the City of New Philadelphia, Ohio, as follows:

- Section 1. The City of New Philadelphia, Ohio recognizes the significance and value of the NP2R Trail to the Community.
- Section 2. The City of New Philadelphia, Ohio supports the development of the NP2R Trail, Which once developed will be turned over to a non-profit 501C3 group for all operation and maintenance purposes.
- Section 3: The resolution shall take effect and be in force immediately upon its passage.

PARKS & CEMETERY COMMITTEEMS. WINNIE WALKER....NO REPORT

VISITOR’S COMMENTS:

Attorney Steven Anderson
Fitzpatrick Zimmerman and Rose Co., LPA
140 Fair Avenue NW
New Philadelphia, Ohio 44663
Comment from Attorney Anderson:

Mr. Anderson is representing Professional Aviation Municipal Corp. The Company that manages and leases the Airport at Harry Clever Field and has done so since December 1999. Pursuant to 20 Year Agreements

(10 year hard lease and Management Agreement as well as 2 five year options to renew.)

- Mr. Anderson is here tonight his clients had renewed in 2014 for 2019 apparently they were about a month late on submitting their request for the five year extension and one of the things when they came to him they brought to his attention there are several documents involved with them there are a license agreement, management agreement and lease agreement.
- In showing him the management agreement, and the lease agreement there is ambiguity in the two documents as to the time period for exercising the options to renew; The management agreement indicates the time period and the two five year options to renew but does not say when you have to renew by. The lease agreement does indicate the requirement of six months of intent to exercise your option to renew.
- Basically, they missed it by a month. Once they were contacted by someone from the Airport Commission they realized it and immediately submitted their paper work to exercise their option.
Mr. Anderson has spoken with Mr. Farbizo at the Airport Commission and intends to follow up with their meeting he also spoke with Don Kennedy.
What Mr. Farbizo indicated that they have had a very positive experience with his clients since 1999 and they will take into consideration whatever Council wishes for them to do; Letters of recommendation or what.
- What we are asking Council to do and also ask the same thing of the Airport Commission is to consider that his client has complied with the requirements and allow them to exercise their option to renew for the final five years of the agreement.
- Attorney Anderson hopes Council will consider that.
Mr. Anderson thinks it has been a long standing agreement with everyone, and a long standing contractual relationship, it has been good for the City and good for them and they hope it can continue. Mr. Anderson thanked Council for their time.

READING OF ORDINANCES AND RESOLUTIONS

ORDINANCES:

- 13-2014 AN ORDINANCE BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA TO ADOPT THE OHIO ATTORNEY GENERAL’S MODEL PUBLIC RECORDS REQUEST POLICY FOR PURPOSES OF ADDRESSING PUBLIC RECORDS REQUESTS FOR THE CITY OF NEW PHILADELPHIA AND DECLARING AN EMERGENCY. (2ND READING)
- 18-2014 AN ORDINANCE TO APPROVE, ADOPT, AND ENACT THE CURRENT REPLACEMENT PAGES TO THE CODIFIED ORDINANCES AND DECLARING AN EMERGENCY. (1ST READING)

RESOLUTIONS:

NONE

UNFINISHED OR OLD BUSINESS:

Comments from Law Director, Mr. Fete

He informed Council what his position is on anonymous letters.

Mr. Fete announced he is the Legal Counsel for the City of New Philadelphia

You can go to him in confidence; if you wish for your concern to be confidential he will respect your wishes.

If he receives an anonymous letter, where the name is withheld, he will not respond to it unless the concern is a threat, a matter where it would be his duty to contact the Law Enforcement.

Mr. Fete feelings are if you don't have the courage to stand up with your convictions, he doesn't think they should be reacted to.

Law Director will put anonymous letters in the trash can or hand it to the person that the anonymous complaint has been addressed to and let them know what is out there.

"I'm not going to respond to anonymous letters formerly or give any creditability to them.

That is my policy as long as I hold this position."

Comment from the Mayor:

Informed Council that he agrees with the Law Director.

If you get an anonymous letters let Mr. Fete look at it. If he says get rid of it

Please do not duplicate it get rid of it.

Comment from the Councilperson Zucal:

Councilperson Zucal thanked Mr. Fete for clarifying his position on anonymous letters.

NEW BUSINESS:

NONE

MS.COX MADE A MOTION TO ADJOURN THE MEETING AT 8:09 PM.

CLERK OF COUNCIL _____

APPROVED _____

PRESIDENT OF COUNCIL _____