

NEW PHILADELPHIA CITY COUNCIL MET IN REGULAR SESSION IN COUNCIL CHAMBERS
ON SEPTEMBER 9TH, 2013 WITH PRESIDENT OF COUNCIL, SAM HITCHCOCK, PRESIDING.

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

COUNCIL MEMBERS IN ATTENDANCE:

MS. SANDY COX
MS. COLLEEN ESPENSCHIED
MR. DAN LANZER
MR. DARRIN LAUTENSCHLEGER
MR. ROB MAURER
MS. WINNIE WALKER
MR. JOHN ZUCAL

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 PREVIOUS REGULAR SESSION OF
COUNCIL HELD ON MONDAY, AUGUST 26TH, 2013.
MR. LANZER SECONDED THE MOTION

ROLL CALL, 7 YEAS
MOTION PASSED

CORRESPONDENCE CLERK, PATRICIA MCKAY

1. Mayor's Report/Requests to Council September 9th, 2013
2. Thank you to Council Members, Council President and Council Clerk from Council Member Ms. Walker Expressing her and her family's appreciation for Council's kind expression of sympathy for the recent loss of Ms. Walker's Mother.
3. A request dated August 27th, 2013 to Council President Sam Hitchcock and John Zucal Salary Committee Chairman, second submission, from the 18 Members of the New Philadelphia Management Group Tiers AB&D for a pay increase of 2.75% in 2013, 2.50 % in 2014, and 2.25% in 2015 for Non-Bargaining Members of Tiers A, B & D.
4. A notice to Council from the Ohio Division of Liquor Control, 6606 Tussing Road, P. O. Box 4005, Reynoldsburg, Ohio 43068-9005. Dated August 30th, 2013
To DLC Venture LLC DBA The Back Alley 110 Ashwood Ln NW, New Philadelphia, Ohio 44663 for Type STCK Permit. Asking that objections be made no later than September 30, 2013.
A notice to Council from the Ohio Division of Liquor Control, 6606 Tussing Road, P. O. Box 4005, Reynoldsburg, Ohio 43068-9005. Dated September 6th, 2013
To Primo Hospitality LLC DBA Uncle Primo's Restaurant & Patio, 435 Minnich Avenue NW, New Philadelphia, Ohio 44663 for Type TRFO.
From Primo's Restaurant Inc. DBA Uncle Primo's Restaurant and Patio
Asking that objections be made no later than October 7th, 2013.
A notice to Council from the Ohio Division of Liquor Control, 6606 Tussing Road, P. O. Box 4005, Reynoldsburg, Ohio 43068-9005. Dated September 5th, 2013
To Front Street Tavern of New Philadelphia LLC DBA Front Street Tavern & Patio, 126 Front Avenue SW, New Philadelphia, Ohio 44663 for type TRFO.
From Robert Lance & Patio, 126 Front Avenue SW, New Philadelphia, Ohio 44663.
Asking that objections be made no later than October 7th, 2013.
5. City of New Philadelphia Statement of Cash Position with Month to Date as of August 30, 2013
6. City of New Philadelphia Budget Report with Encumbrance Details as of August 30th, 2013
7. Auditor's Financial Statement for the Month of August 2013
8. Auditor's Monthly Statement of 2013 Revenue for the General Fund for August 2013
9. Mayor's Monthly Statement to Council for the Month of August 2013

10. News Release: City Sets Pricing for Natural Gas Program, plan provides 1 year fixed rate, City renewed the agreement with Constellation. Enrollment begins now through September 30th, 2013.
11. Press Release: City announces Trick or Treat Night will be held Wednesday October 30th, 2013 from 6:00 PM through 8:00 PM
12. From Mayor Taylor dated Thursday September 5th, 2013: the Auditor will be having an Open House/ Public Hearing on Monday September 23rd, 2013 at 7:00 PM in Council Chambers to provide information and answer questions regarding the City's Income Tax Increase on the November 5th ,2013 Ballot
13. New Philadelphia Fire Department August 2013 Month- End Summary
14. New Philadelphia Police /Monthly Activity Report for the Month of August 2013

ADMINISTRATIVE REPORTS:

MAYOR'S REPORT/REQUESTS.....MAYOR MICHAEL TAYLOR

The Mayor addressed the following:

The Mayor announced:

- He and the Auditor will be holding a voluntary meeting on September 12th, 2013 after work hours, for any City employee interested in the Income Tax Increase Request on the November ballot.
- The Auditor will hold a Public Hearing for the Income Tax Increase prior to the Council Meeting on September 23rd, 2013 at 7:00 PM. The public is invited to come and ask questions and receive information.
- The City will hold their Trick or Treat Night on Wednesday October 30th, 2013 from 6:00 to 8:00 PM.
- The Mayor, Service Director, Assistant Service Director, and some Department Heads met with representatives of ODOT to review the plans and preliminary costs for the 2014 West High Widening Project. Our projected costs are between 500 and 600 thousand dollars.

The City will be advised in the first quarter of 2014 what amount it will have to pay forward to ODOT or put in an escrow account.

If the City decides to move forward in getting a loan for this amount from the State Infrastructure Bank the process will need to be started late November or December.

Currently, money in the neighborhood of \$500 thousand dollars has been accumulating to pay for this which has been set aside.

Council will have to make the final decision to use that for the project as was originally planned or to keep the money for operations and borrow our portion of the project.

Previously the Auditor had requested we borrow those funds for our portion.

The Mayor requested the Council President assign reviewing this issue and whether to apply for a SIB loan to the Finance Committee. (The Finance Committee could wait till mid- October to meet on this issue.)

- The Traveling Viet Nam Veterans Memorial Wall is being again brought to Buckeye Career Center
The Mayor will be attending the welcoming ceremony Thursday evening.
Mayor Taylor thanked all those involved in bringing the wall here and Mayor Taylor encouraged all Citizens to visit the wall.

SERVICE DIRECTOR.....MR. JAMES ZUCAL

The Service Director Mr. James Zucal reported on the following

1. The Five Point Storm Sewer Project is progressing well. Tucson Inc. is working in the area behind Gradall and by the Gradall Plant. As the month goes they will be moving north toward Bank Lane and 7th Street.
2. Paving: The Shelly Co. did not return after Labor Day as expected. They will be coming back soon. The Service Director talked to the representatives from the company and ODOT personnel. They have a contract with ODOT they are going to meet their guidelines. They will achieve their goal within the contract specification.
3. Still cleaning up from the storms from this summer: At the Fair Avenue Cemetery we are having work done by a contractor, Atwood Trees Service. There is a lot of damage in that area and it is appropriate to bring a contractor in, as our crews cannot do all that work which involves climbing and some limbs that are hanging in the trees.
4. Report on part of Moving Ohio Forward Demolition Program:
A structure on the south side of Front Avenue SE in the 100 block, was razed and now it is a vacant lot with straw and grass seed planted.
Another one on Kaserman Avenue just off of Beaver Avenue NE, the old Slaughter House has been razed.
The Service Director spoke with Julie Smith with RODC they had an inspector on the jobs and they met the qualifications and specs it has been approved they will get paid for that.

This is an improvement to the City.

AUDITORMS. BETH GUNDY

Ms. Gundy reported, as of August 30th, 2013 when we wrapped up the month, the General Fund had received about \$600,000.00 more than we had expected when we did our Budget.

This was because of the refund from Workers Comp, Estate Tax and close to \$300,000.00 in Income Tax that would have gone into Master Capital.

SAFETY DIRECTOR.....MR. GREG POPHAM

Mr. Popham reported:

Police Department:

The Resource Officer is in the schools, what he has been told, everything is working well.

Thanks to Sandy Cox: Mr. Popham brought to everyone's attention the Police Monthly Report.

There are some technical difficulties that are taking place at the Police Department and they are having to do a lot of entries (not on the computer) but by hand. It will have to be entered into the computer in the near future. A lot of the data is not provided in your report but that should be fixed in a couple weeks.

Fire Department:

The Fire Inspections and the Fire Drills were completed at the schools and everything went well.

President comment: "Officer Horner was an excellent fit as the School Resource Officer I think the kids will respond to her and I think she is going to do an excellent job."

TREASURERMS. LORI STATLER.....NO REPORT

LAW DIRECTORMR. MARVIN FETE

The Law Director reported the following:

1. The Law Director is currently working on three written legal opinions. One of which is completed that he passed out to Council this evening; which he will comment on at the end of his report.
2. The Law Director received a request from the Auditor: Public Record Request whether or not the Auditor's office has to respond to it.
3. A legal opinion for the Mayor: in regard to the legality of allowing City Employees to work multiple jobs in excess of 40 hours. The Law Director is going to look at whether or not an employee could receive a stipend as well as an hourly salary and he should have an answer for the Mayor by the next Council Meeting.
4. Issued an oral legal opinion which is the zoning issue in regard to ODOT Expansion Project. It was brought to his attention by the Assistant Service Director at a brief meeting last week on the issue.
5. This coming Thursday: The Law Director has a meeting with the Mayor and the Service Director to discuss the legal filings he is going to need to file in Common Pleas Court helping us to facilitate the ODOT Expansion Project on West High.

The Law Director's Drafted Legal Opinion to Council as requested:

The Law Director was asked at the last Council Meeting on whether the President of the New Philadelphia City Council after assigning an issue to a Specific Committee, in this case the Salary Committee, has the legal authority to move that issue from that Committee and reassign it or expand it to a Committee of the Whole.

The Law Director's Summary: "there is no legal authority which specifically prohibits the President of Council from removing a previously assigned issue from a Committee and either re-assigning it to a different Committee or expanding it to a Committee of the Whole. Therefore the action is permissible."

Robert's Rules of Order which by Ordinance this Council has adopted to follow as a matter of procedure. The Law Director added a recommendation if Council wishes to enact the rules they should adopt the bylaws, rules of procedures that are more specific than Robert's Rules of Order.

The Law Director received a question that he felt should be addressed:

In Roberts Rules of Order: It states "A Special Committee should not be appointed to perform a task that falls within the assigned function of an existing Standing Committee. However; in the law: the law makes a distinction between the words should and shall, if the word should is used that is meant

advisory and if shall is used you must follow you are bound by this binding principal. Because the word should was used the Law Director didn't feel that was Direct Authority. It did not address what authority the President has, in this instance, and what authority the Committee has so if Council wished to address this issue in the future the Law Director would recommend Council should adopt the bylaws, rules of procedure that could be used.

Looking at this issue the Law Directors did not find a Direct Authority that prohibits it and it is the Law Director's Legal Opinion what the President did is permissible based upon the Persuasive Authorities.

The Law Director's conclusion"

"There is no direct legal authority prohibiting the reassignment of an issue from a committee or the expansion of the issue to a Committee of the Whole by the Council President, there is nothing to prevent that action."

"The analysis of Secondary Authority shows how issues can be assigned and removed from committees following certain rules but none of those rules have been adopted herein.

If the City Council of New Philadelphia wishes to prevent this issue and others that could arise in the future, it should enact bylaws, or rules that more specifically govern Council procedures on legislative issues, and more clearly specify the authority of the Council President in such matters."

Attached to the Law Director's legal opinion were relevant portions of Roberts Rules of Order and rules for the other legislative bodies he cited herein for members to examine.

Council Member Ms. Cox and Council President thanked the Law Director for his hard work.

BOARD/COMMISSION REPORTS:

PLANNING COMMISSION.....MAYOR MICHAEL TAYLOR

The Mayor announced Planning Commission Meeting will not be held in the Month of September. Pending an agenda, it will meet Tuesday, October 8th, 2013 at 1:00 PM in Council Chambers.

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

Mr. Zucal announced, the Board of Zoning Appeals Meeting will meet Tuesday, September 10th, 2013 at 5:00 PM in Council Chambers there are three variance requests.

AIRPORT COMMISSION..... MR. JOHN ZUCAL.....NO REPORT

Mr. John Zucal announced the Airport Commission will meet Tuesday, September 10th, 2013

There will be two meetings:

The Planning Meeting is scheduled for 4:30 PM, an annual gathering where we continue to work with the Airport Consultant developing plans for the future of the Airport, a standard operating procedure and that meeting will run until we convene at 6:00 PM for our regular meeting. Both meetings will held in the Airport Meeting Room.

PARK BOARD..... MR. DARRIN LAUTENSCHLEGER

Mr. Lautenschleger announced the Park Board is working around every ones schedule to try to schedule a meeting in September. Mr. Lautenschleger hopes to have details about a meeting or an upcoming meeting at the next Council Meeting.

HEALTH BOARD.....MS. SANDY COX

Ms. Cox announced that the next scheduled meeting for the Health Board is Wednesday, September 18th, 2013 at 12:00 Noon at the Health Department.

STANDING COMMITTEE REPORTS:

FINANCE COMMITTEE. MS. SANDY COX.....NO REPORT

The Council President assigned to the Finance Committee the Mayor's request the reviewing the issue and whether to apply for a SIB loan.

SALARY COMMITTEEMR. JOHN ZUCAL.....NO REPORT

SAFETY HEALTH & SERVICE COMMITTEEMR. ROB MAURER....NO REPORT

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

ZONING & ANNEXATION COMMITTEEMS. COLLEEN ESPENSCHIED

Ms. Colleen Espenschied reported the Zoning & Annexation Committee met tonight at 7:00 PM In Council Chambers with one item to discuss: the rezoning from residential to business the property located at Seventh and Tuscarawas Avenue NW, New Philadelphia Miller Studio, Inc. electrical sign (ODOT's recommendation.) Ms. Espenschied reported Mr. John Zucal made a motion for the rezoning from residential to business the property located at Seventh and Tuscarawas Avenue NW, New Philadelphia and read for three readings. Mr. Lautenschleger seconded the motion. The motion passed. Meeting adjourned at 7:03 PM.

CONTACT & SPECIAL COMMITTEE MR. DAN LANZER....NO REPORT

Council President Sam Hitchcock assigned to the Contact & Special Committee the three notices to Council from the Ohio Division of Liquor Control.

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

VISITOR'S COMMENTS:

NONE

READING OF ORDINANCES AND RESOLUTIONS

ORDINANCES:

AMENDED

13-2013 AN ORDINANCE AMENDING CODIFIED ORDINANCE CHAPTER 1141 OF THE CITY OF NEW PHILADELPHIA, OHIO, TO ENACT A SUPPLEMENTAL SECTION 1141.05 TO ADDRESS RECREATIONAL VEHICLE PARKING AND STORAGE AND DECLARING AN EMERGENCY. (3rd READING)

Motion to vote on passage made by Ms. Espenschied, seconded by Mr. John Zucal
Roll call, 7 yeas, ordinance passed.

15-2013 AN ORDINANCE TO APPROVE, ADOPT AND ENACT THE CURRENT REPLACEMENT PAGES TO THE CODIFIED ORDINANCES AND DECLARING AN EMERGENCY. (2nd READING)

RESOLUTIONS:

27-2013 A RESOLUTION BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO TO COMMEND DEAN E. MILLER FOR HIS 21 YEARS OF SERVICE AND DEDICATION TO THE CITY OF NEW PHILADELPHIA, AS A PART-TIME SANITARIAN WITH THE NEW PHILADELPHIA HEALTH DEPARTMENT. (2nd READING)

29-2013 A RESOLUTION BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO TO APPROVE THE TRANSFER OF \$50,000.00 FROM THE SANITATION FUND (#219) TO BE TRANSFERRED \$25,000.00 TO THE WATER OPERATING FUND (#711) AND \$25,000.00 TO THE SEWER OPERATING FUND (#713) FOR THE 2013 FISCAL YEAR. (2nd READING)

UNFINISHED OR OLD BUSINESS:

President Sam Hitchcock passed on, as was requested, the pay increase for the Non-Bargaining Members of Tiers A, B & D to the Ad Hoc Committee Chair John Zucal.

NEW BUSINESS:

Council Member John Zucal thanked the Safety Forces for all their efforts in helping the school year start up smoothly.

“We lean heavily on the Fire Department and the Police Department. They have helped us with our New Philadelphia City Schools. Our Safety Plan is very comprehensive and

will help serve the students, parents, and citizens of New Philadelphia. Mr. Popham our Safety Director, the Fire Department and the Police Department again we extend our thanks for a job well done.”

MS. COX MADE A MOTION TO ADJOURN THE MEETING AT 7:58 PM.

CLERK OF COUNCIL _____

APPROVED _____

PRESIDENT OF COUNCIL _____