

NEW PHILADELPHIA CITY COUNCIL MET IN REGULAR SESSION IN COUNCIL CHAMBERS ON JUNE 13, 2011 WITH PRESIDENT OF COUNCIL JOEL DAY PRESIDING. MR. DAY OFFERED A PRAYER AND ALL IN ATTENDANCE RECITED THE PLEDGE OF ALLEGIANCE.

COUNCIL MEMBERS IN ATTENDANCE:

MS. SANDY COX
MS. COLLEEN ESPENSCHIED
MR. DARRIN LAUTENSCHLEGER
MR. JIM LOCKER
MR. ROB MAURER
MS. WINNIE WALKER
MR. JOHN ZUCAL

MS. COX MOVED THAT WE ADD ORDINANCE 9-2011 TO THE AGENDA AND MS. WALKER SECONDED THE MOTION TO ADD ORDINANCE 9-2011 TO THE AGENDA TONIGHT. ROLL CALL, 7 YEAS, MOTION PASSED.

MS. COX MADE A MOTION TO ACCEPT TONIGHT'S AGENDA. MS. WALKER SECONDED THE MOTION. ROLL CALL, 7 YEAS, MOTION PASSED

MS. ESPENSCHIED MADE A MOTION TO APPROVE THE MINUTES OF THE PREVIOUS SESSION HELD MAY 23, 2011 AND MR. ZUCAL SECONDED THE MOTION. ROLL CALL, 7 YEAS, MOTION PASSED.

CORRESPONDENCE CLERK, PATRICIA MCKAY

1. Public Works and Economical Development Committee Meeting Minutes from May 23,2011
2. Finance Committee Meeting Minutes from May 23, 2011
3. New Philadelphia Fire Department May 2011 Month end Summary
4. City Auction from June 6,2011 Report
5. The Auditors Monthly Statement for 2011 for the General Fund for the Month of May 2011
6. The Auditors Financial Statement for the Month of May 2011
7. New Philadelphia Police Monthly Activity Report for the Month of May 2011
8. Mayor's Monthly Statement to Council for the Month of May 2011
9. Public Notice of Receipt of 401 Application

Public notice is hereby given that the Ohio Environmental Protection Agency Division of Surface Water has received an application for, and has begun to consider whether to issue or deny, a Clean Water Act Section 401 water quality certification to correct dam safety concerns at Bolivar Dam. The proposed project consists of construction of a seepage blanket to reduce risk of dam failure associated with Bolivar Dam under seepage issues, until major rehabilitation of the dam can be completed. The application was submitted by the U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, West Virginia 25701- 2070. The project is located at Bolivar Dam near Bolivar in Tuscarawas County, Ohio. The Ohio EPA ID Number for this project is 113750. Persons wishing to

- 1) Be on Ohio EPA's interested Parties mailing list for this project,
- 2) Request a public hearing

- 3) Submit written comments for Ohio EPA's consideration in reviewing the application should do so in writing to Ohio EPA-DSW, Attention: Permits Processing Unit, P.O. Box 1049, Columbus, Ohio 43216-1049 within thirty days of the date of this public notice.

ADMINISTRATIVE REPORTS:

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

Mayor Taylor did not have a written report for Council tonight.

Mayor Taylor Introduced and welcomed Bill Morgan as the new appointment and replacement for Dan Llewellyn for the Park Board. Mr. Morgan will fulfill the remainder of Mr. Llewellyn's three year term, ending December 31, 2012. Mr. Morgan is employed at 1450 WJER as the Morning Personality and Sports Director. The Mayor feels that Mr. Morgan will be a great asset to the Park Board.

SERVICE DIRECTOR.....MR. JAMES ZUCAL

The Service Director reported the following:

- The Board of Control Meeting was held on May 26, 2011.
- The Paving contract was awarded to the Newton Asphalt Company of Strasburg.
- Kimble Landfill received a new 3 year contract for dumping of refuse
- Bids were open the Packer Body of the new Sanitation Truck
2 bids were received with low bid from a Company in Iowa.
The Board of Control will meet to make a decision on this matter.
- The Waste Water Department has been doing a great job. The employees are re-building catch basins throughout the City.
- The Airport Restaurant repairs are taking place currently. Everything is in motion; they are about 3 to 4 weeks behind schedule.
- The Prioritized Street Paving 2011 List will be put in every body's mail box this week. There may be more streets added to the list in the future. Streets will be done as funding allows.

AUDITORMS. BETH GUNDY

The Auditor reported that we have reached our limit in Master Capital for Income Tax Revenue.

We did that in May (\$ 450,000) now the rest will be going into the General Fund.

SAFETY DIRECTOR.....MR. GREG POPHAM

The Safety Director reported that the City Auction was held June 6, 2011.

Officer, Jen Horner conducted the auction, for the first time, and did a great job; the grand total received for this event was \$5,041. Officer Horner informed the Safety Director that she would like to continue to have the auction about the same time every year. (1st of June)

TREASURERMR. DAVE JOHNSON

The Treasurer requested council accepts the revised Treasurers Report for 2010 and for the Treasurers Report for first 2 months of this year

He informed Council that they have already received Copies of the first 2 months and the others are available any time anyone wants to see them.

Ms. Cox requested the Auditors Reports be accepted also.

Ms. Cox made a motion to accept the Treasurers/Auditor's Report. Mr. Locker seconded the motion

Roll call 7 yeas motion passed.

LAW DIRECTOR.....MR. MICHAEL JOHNSON

The Law Director reported the following:

- A New Philadelphia Attorney, Steve Anderson will be here later if we wish him to join the executive session. His delay is because he is coaching a minor league team for a championship title at the Water Works.

- A couple months ago there was a law suit filed against the City of New Philadelphia. The individual's name was not given as it did not have any merit and we do not have to give publicity for that type of action. The law suit was filed near the end of April. In May a motion to dismiss was filed, as the law suit had no merit Judge Elizabeth Lehigh Thomakos did dismiss that law suit. A notice went out to our Insurance Company that it had been filed, advising the Insurance Company not to hire a lawyer or to take any action on behalf of the City. The Law Director would let them know if we needed their participation and sent them a copy of the paperwork to dismiss. They were satisfied with that action.
- The Law Director reported that he filed an appeal based on the Police Department Grievance that came back interpreting our contract. The contract interpretation was over the addition of Sergeant to the Police Department. Our contract provides that if the Captain is not there, the Sergeant in charge will be the duty officer in charge without receiving acting Captain's pay.

Part of the reason we created Sergeant was to follow the chain of command but the unusual always happens.

The Captain was off; the Sergeant was off - both off on the same day, so the officer in charge was paid the next level up to Sergeant's pay. A grievance was filed. We went through the process and the Mediator/Arbitrator came back with a ruling and said, "Since past practice was always that a patrolman was paid Captain rates he should be without acknowledging that past practice has been modified by a new contract inserting the Sergeant. We feel that this is something that can wait. We feel that this is something that can come up in the future and discussing this with the mayor and then discussing this with Clemans Nelson we felt that it would be prudent to file that in court. There is an appeal that has been filed June 9th. The Law Director said he will keep Council apprised on the progress.

BOARD/COMMISSION REPORTS:

PLANNING COMMISSION.....MAYOR MICHAEL TAYLOR

The Mayor announced that the next Planning Commission meeting will be Tuesday, June 14, 2011, at 1:00 PM in Council Chambers one agenda item.

BOARD OF ZONING APPEALS.....MR. JIM ZUCAL

Mr. Zucal announced Board of Zoning Appeals has been cancelled for Tuesday, June 14, 2011 and the meeting was rescheduled for June 21, 2011, at 5:00 PM in Council Chambers.

AIRPORT COMMISSION.....MR. JIM LOCKER

Mr. Locker announced that the Airport Commission Meeting will be held June 14, 2011 at 6:00 PM in the Airport Meeting Room.

PARK BOARD.....MR. DARRIN LAUTENSCHLEGER.....No Report

HEALTH BOARD.....MS. SANDY COX

Ms. Cox reported the next scheduled meeting of the Health Board is scheduled Wednesday, June 15, 2011 at 12:00 noon at the Health Department.

STANDING COMMITTEE REPORTS:

FINANCE COMMITTEE.MS. SANDY COX

Ms. Cox reported that the Finance Committee met tonight at 7:00 PM in Council Chambers with one item on the agenda.

Ordinance 9-2011 An ordinance amending and adjusting permanent appropriations ordinance for the year 2011.

The committee requested that Ordinance 9-2011 be added to the agenda and passed as an emergency this evening. It is for an appropriation for \$30,000 Maintenance of Facilities. The Fire Station basement has a crack in the wall and the Committee wants to get it fixed as soon as possible.

The Meeting adjourned at 7:05 P.M.

SALARY COMMITTEEMR. JIM LOCKER

Mr. Locker reported that the Salary Committee a met at 7:15 PM on June 13, 2011 In Council Chambers. All Committee Members were present. The issue discussed was Resolution 22-2011. The Law director prepared the resolution for Dan Llewellyn for his 19 years of Service s for the Park Board. Ms. Walker made a motion to have the Resolution on the Agenda for the next council Meeting. The motion was seconded by John Zucal. The Committee Voted 3 Yeas

Meeting adjourned at 7:17PM

SAFETY, HEALTH AND SERVICE COMMITTEE MR. ROB MAURER

Mr. Maurer reported that the Safety, Health and Service Committee met at 6:30 PM on June 7, 2011 in Council Chambers. Mr. Maurer acknowledged a letter dated June 7, 2011 by Attorney Steve Anderson in reference to the TCC Ditch Project. Mr. Maurer reported that the letter basically said:

- Water for their TCC Athletic Complex and are willing to pay a \$1 per year for 30 years.
- The City would obtain easement
- REM would install pipe and erect retention pond in that area
- The City would pay for the materials, piping, erect and maintain the fence around the retention pond.
- The City would pay REM Construction \$25,000 for fuel, insurance and miscellaneous expenses that would be incurred in digging the retention pond.

After discussing with Law Director, the committee felt it might be best if council met in an executive session to discuss ongoing negotiations with TCC.

Mr. Maurer moved to go into an Executive Session this evening at the conclusion of the Legislative Agenda to discuss negotiations with TCC the motion was seconded by Mr. Zucal.

Ms. Cox asked if negotiations is part of the Sunshine Rule and was informed that it was.

Roll Call 7 yeas, motion passed.

PUBLIC WORKS & ECONOMIC DEVELOPMENT COMMITTEE. . MR. DARRIN LAUTENSCHLEGER

Mr. Lautenschleger reported that the Public Works & Economic Development Committee met tonight at 6:45 PM in Council Chambers with one item to discuss: Proposed Resolution 23-2011 which deals with upgrades to the lift station at the Robinson Drive SE Pump Station OPWC project. (Knisely Industrial Park Area)

City Council approved applying for the grant in 2010. Resolution 23-2011 authorizes advertising for bids and awarding a contract for the work to be done in 2011.

Mr. Lautenschleger informed council that this project will allow for the planned capacity for new construction in the area, including the planned Multi-County Juvenile Attention Center. The Ohio Public Works Commission (OPWC) has awarded the City a grant for 80% of the total cost of the project which is estimated at \$225,000. The City’s share will be 20 % of the total cost of the project. The Committee agreed to add the Resolution 23-2011 to the June 27, 2011 Agenda, to have the rules suspended and the resolution be passed on the first reading.

The meeting adjourned at 6:50 PM

Mr. Lautenschleger reminded all: “on the agenda for tonight is Ordinance 8-2011 which deals with application for the Service Director to get bids for the New Philadelphia runway project for 2011 The committee recommends for the rules to be suspended and the resolution to be passed on the first reading.”

ZONING & ANNEXATION COMMITTEEMS. COLLEEN ESPENSCHIED.....NO REPORT

CONTACT & SPECIAL COMMITTEE MR. JOHN ZUCAL.....NO REPORT

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

Ms. Walker announced that the Parks & Cemetery Committee has a meeting schedule for June 15, 2011 at 6:30PM in Council Chambers to discuss Oil/Gas lease proposal with Avalanche Energy LLC

VISITOR'S COMMENTS

Mr. Robert Conner, 122 North Avenue NW, New Philadelphia, Ohio 44663

His concern was how and why an Executive Session could be called for ongoing negotiations with TCC.

Mr. Conner stated that the Ohio Revised Code 121.22 is quite specific on how and why an executive session is held.

1. To consider the appointment, employment, dismissal of a public employee, or official
2. To consider the purchase of property for public purposes or for the sale of property at competitive bidding.
3. Conferences with an attorney concerning disputes involving the public body that are the subject of pending or imminent court action
4. Preparing for conducting or reviewing negotiations or bargaining sessions with public employees
5. Matters required to be kept confidential by federal law or regulations or state statutes
6. Details relative to the security arrangements and emergency repose protocols for a public body of a public office.
7. Certain things in regard to county hospitals.

Mr. Conner wanted to know which one of the conditions exists that allows an executive session to be called. It is his feeling that because of the nature of what may be discussed tonight that this should be a public discussion and not an executive session.

The Law Director answered that this is a proper topic. A lot more is being discussed this is an ongoing negotiation on what the City's position is going to be, whether there will be any negotiation, whether we will be acquiring property and it affects how the City spends money. The discussion is an executive session no action taken on that no action without preparation of legislation and an open debate an opportunity to be heard, the committee felt that it was necessary to bring this to the full council to discuss the direction we want to go and we are pursuant to the Sunshine Law. We are permitted to go into an executive session for that purpose.

Mr. Conner asked the Law Director "what one of the 7 items does that fall?"

The Law Director replied "I'm not going into any more detail at this time, I have made my statement."

READING OF ORDINANCES AND RESOLUTIONS:

ORDINANCE:

- 7-2011 An ordinance by the Council of the City of New Philadelphia, Ohio to categorize and list the department heads, assistant department heads and other non union employees and declaring an emergency.
(3rd Reading)
Motion to vote on passage made by Mr. Zucal, seconded By Mr. Locker
Roll call, 7 yeas, ordinance passed
- 8-2011 An ordinance by the Council of the City of New Philadelphia authorizing and directing the Service Director to advertise for bids, receive bids and to enter into a contract with lowest and best bidder for the 2011 ramp rehabilitation project at Harry Clever Field, and declaring an emergency
- Motion to suspend the rules made by Mr. Lautenschleger., seconded by Mr. Maurer
Roll call, 7 yeas, rules suspended.
- Motion to vote on passage made by Mr. Lautenschleger, seconded by Mr. Locker
Roll call, 7 yeas, ordinance passed
- 9-2011 An ordinance amending and adjusting the permanent appropriations ordinance for the year 2011 and declaring an emergency.
- Motion to suspend the rules made by Ms. Cox., seconded by Ms. Espenschied
Roll call, 7 yeas, rules suspended.
- Motion to vote on passage made by Ms. Cox., seconded by Ms. Espenschied

Roll call, 7 yeas, ordinance passed

RESOLUTIONS:

19-2011 A resolution by the Council of the City of New Philadelphia, Ohio to increase wages for certain non-bargaining employees retroactive to January 1, 2011 and declaring an emergency. (3rd Reading)

Motion to vote on passage made by Mr. Locker, seconded By Mr. Zucal
Roll call, 7 yeas, resolution passed

20-2011 A resolution by the Council of the City of New Philadelphia, Ohio to accept the alternate formula for distribution of local government and local government revenue assistance funds as proposed by the Tuscarawas County Budget Commission and as prescribed by Section 5747.53 of the Ohio Revised Code, and declaring an emergency. (2nd Reading)

Motion to suspend the rules made by Ms. Cox., seconded by Mr. Lautenschleger
Roll call, 7 yeas, rules suspended.

Motion to vote on passage made by Ms. Cox., seconded by Mr. Locker
Roll call, 7 yeas, resolution passed

COUNCIL ADJOURNED FROM REGULAR SESSION INTO EXECUTIVE SESSION AT 8:00 PM AS REQUESTED BY COUNCIL MEMBER, ROB MAURER TO DISCUSS ONGOING NEGOTIATIONS WITH TUSCARAWAS CENTRAL CATHOLIC HIGH SCHOOL. COUNCIL RECONVENED INTO REGULAR SESSION AT 9:00 PM

UNFINISHED OR OLD BUSINESS:None

NEW BUSINESS:None

MOTION TO ADJOURN MADE BY MS COX, MEETING ADJOURNED AT 9:01 PM

CLERK OF COUNCIL _____

APPROVED _____

PRESIDENT OF COUNCIL _____