

MINUTES OF A REGULAR MEETING

BROOKLYN CITY COUNCIL

October 9, 2012

7:00 p.m.

Present: Ron Van Kirk
Colleen Gallagher
Katie Gallagher
Tom Murphy
Tony DeMarco
Kathy Pucci

Absent: Kevin Tanski

Pledge of Allegiance.

DISPOSAL OF MINUTES:

MOTION by Pucci, second by VanKirk to approve the minutes of September 24, 2012, as amended with corrections and expansion of conversations: **VOTE RESULTED: Approve as Amended: Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. (APPROVED AS AMENDED)**

SWEARING-IN OF NEW POLICE OFFICERS:

In the absence of the Mayor Balbier, Council President DeMarco administered the Oaths of Office to Bradley Washburn and Francesco Spremulli.

PUBLIC SESSION:

Bob Gardin of 4352 Pearl Road, Cleveland (on behalf of Friends of the Big Creek). Said their group, founded in 2005, acts as a conservancy for watershed stewardship, and that greenway trails are expanding for access to the natural resources. Last year they acquired a parcel leading to the Big Creek, which will be conserved. Passed out copies of their newsletter. Spoke of their being awarded \$150,000 through a partnership with Ohio EPA and Cleveland Metroparks, which will have a detailed announcement on soon. Spoke of the Watershed Balanced Growth Plan partnership meeting, for which Brooklyn will be the host city for the meeting, with other cities and entities, and interested public.

Tom Adamski of 9625 Melody Lane, Brooklyn. Asked the Finance Director what the current amount is of the landfill closure fund, and how much of the budget is being put aside each year on the closing of the landfill. Asked Dir. Claussen if the city has filed a counter claim against the engineering services the city used for the landfill, on their negligence.

REPORTS OF COMMITTEES, COMMISSIONS & BOARDS:

Finance Committee (Tony DeMarco): The Committee met at 6:30 and addressed the following: recommended approval of retrospective rating for Worker's Compensation; recommended adoption of Res. 2012-15; Ords. 2012-62, 63, 65, and 66.

Legislative Update, Domestic Violence, Juvenile Diversion (Councilwoman C.Gallagher): Congratulated the Domestic Violence Committee on an award from the Domestic Violence and Child Advocacy Center for their commitment in following best practices, policy and protocol in keeping domestic violence victims safe. October is Domestic Violence Awareness Month, and old cell phones and charges will be accepted at the Police Dispatch area.

Bd. of Zoning Appeals (Comm. Ockington): The Board will meet on Thursday, October 18, 2012 at 7 p.m. in the Mayor's Court for the following: request from B.Rinker on behalf of Sheetz for 1300 foot driveway with a variance and 2' height canopy variance for the new Sheetz at 10315 Cascade Crossing; request from J.Green

for a six foot board on board solid fence with pegboard including integral light poles at 10218 Biddulph Road. Notification was received this morning that Cleveland Baptist withdrew their applications for the Board for two sign proposals. The public is welcome at all meetings.

Public Safety & Environmental Committee (Tom Murphy): The Committee met and discussed three matters: the legislation allowing chickens in the city; electric meters (a speaker did not attend); and signs on Outlook (the Chief will comment on).

Planning Commission (Councilwoman K.Gallagher): The Commission met October 4th and approved a request from A.Sirak (7324 & 7328 Associate) for a lot split and consolidation; and approved a request from Adjile Sign and Lighting for an 84 sq. foot externally illuminated sign, and a 36 sq. foot externally illuminated logo sign on the exterior of the front building, and a 68 foot externally illuminated sign on the rear and west building faces at 10310 Cascade Crossing. Also tabled a request from B.Rinker, on behalf of Sheetz, for final site plan approval for the Sheetz project (10315 Cascade Crossing), on the recommendation of the Law Director, under Traffic Code 305.2, that the Safety Director should approve a traffic light as part of their request.

REPORTS OF COUNCIL:

Ron VanKirk: The Presidential Election is in four weeks, as well as federal, state, local officials, and several state and local issues. Encouraged visiting the Bd. of Elections website at boe.cuyahogacounty.us to view the Brooklyn ballot and issues and amendments, and become informed of all issues. Spoke about early voting and absentee voting options. Signage for Outlook Avenue for Slow Children at Play has been ordered. Reiterated comments about challenges and discussions and the need for leadership and action from the Administration. Concerns and complaints about department responses to requests and questions were discussed, and looking to resolve these items, but the issues have fallen on deaf ears. He feels they must be dealt with in a timely fashion, and fears major mistakes can be and should be avoided. Feels Council has done its part in raising these concerns and urges the Administration to implement the changes that Council has supported. Asked for an update on the progress of Sheetz and their plan. Repeated it's time for strong, bold leadership in the Administration, act decisively on issues, and act in short order.

Colleen Gallagher: Welcomed new officers. Said the chicken ordinance was introduced at the request of a retired resident interested in raising chickens for eggs. There are residents now with chickens and roosters which is illegal. The Administration suggested those residents be grandfathered, which baffled and shocked her that the city is not enforcing the current law. Feels it's an injustice to turn a blind eye. Pros and cons were discussed at the Safety Comm. meeting. She was asked by some Councilmembers to table the Ordinance for further discussion and come to the best decision. Attended the Oct. 2nd Strategic Planning Committee meeting, whose purpose is to outline cost-saving measures in the city. Council believes that city services can be protected by spending tax dollars wisely. They discussed the structure of the Law Dept. and the healthcare benefits received by some part-time employees. She had proposed last year a merge of the Law Director and Prosecutor positions, in order to save salary and benefit costs, while ensuring legal counsel during all business hours. She gave a breakdown of salary and benefit costs for the positions of Law Director salary-\$60,804.97, benefits-\$16,229.09) (total-\$77,034.06) and Prosecutor (salary-\$36,473.02, benefits-\$25,676.64) (total-\$62,149.66). She suggests an RFP (Request for Proposal) be done for a new full-time Law Director position, to allow all qualified candidates to be considered, and urged the merge of the positions. Asked Comm. Ockington the status on Donald Martens Ambulance Service. He replied that the submitted plans were incomplete and a letter sent to the architect for corrections, and an e-mail was sent today asking what was going on, but he has not heard back yet. She said she heard a rumor of exhaust issues and that they may not move in. Comm. Ockington said he has not heard that, and he will find out and get back to her.

President DeMarco commented that the public should not jump to conclusion on who is supporting or against some items just mentioned, that it's inappropriate.

Katie Gallagher: Had previously brought up a smoking ban on employees on city property, which Dir. Claussen would get other municipal examples. Insurance premiums reflect the health problems caused by smoking. Cited statistics from the Centers for Disease Control relating to tobacco use and second hand smoking. A healthy lifestyle helps keep insurance costs down. She receives monetary incentives at the

County for various healthy lifestyle choices. When health insurance rates rise the city employees alike should share the costs of the increases. The city spent \$1,527,000 on medical and dental coverage in 2011, and was informed the rates would increase 18.26% in 2012, and the city took no steps to control the costs. As of October 1st the city has paid out \$1,662,000 for health insurance this year, and will pay about \$279,000 more than last year. The city currently pays 100% of employees' health coverage, with the state average of employee contributions at 15%. We must begin to work with employees to promote healthy lifestyle, which will help reduce cost in upcoming years, freeing up money in the budget to maintain resident services. Also said the Strategic Planning discussing concerns on the Law Department staffing and coverage. Emphasized these are concerns shared by most of Council, and hopes we can move forward addressing these issues soon.

Tom Murphy: Supported C.Gallagher and K.Gallagher on the full-time benefits for part-time employees, as has been discussed for three years, which equals about \$120,000 over the last three years. Time to have a resolution on this matter, they pay part, they pay all, or they pay none. It must be resolved. Been getting phone calls on the chicken ordinance, and will support it being tabled. Commented to Dir. Verba the new trash pickup is going very well, and the crew is doing a very good job. Congratulated and welcomed the new Police Officers. Attended the Planning Commission meeting last week and heard Sheetz representatives attempt to make a point that they were surprised the City was against an additional traffic light in front of their proposed station, feeling it was addressed during their appeal for Conditional Use of the property. Sheetz had their own traffic study done, which concluded an additional traffic light in front of their location would be a good thing. He feels just because they say it's so doesn't make it so. He thinks it is against common sense to have the light, and a sixth light from Brookpark to north of the bridge will only benefit them and further hinder the flow of traffic. He felt they had a 'see you in court' attitude with the Planning Commission. He stated he wants Sheetz in Brooklyn, but not hurting Tiedeman Road, which is already a traffic nightmare. He is requesting that the city continue to object to the addition of a light; and if it means going to court or commissioning our own traffic study, that is fine with him. He further hopes each Councilmember make their position known to the citizens. He repeated he is not in favor of a traffic light.

Kathy Pucci: Congratulated new Police Officers, and long and safe careers. Thanked Mr. Gardin for speaking, and congratulated Friends of Big Creek on their grant. Thanked the Service Dept. for efforts during transition to automated trash collection, they are doing a great job. Asked residents for patience during this learning curve. For those that feel the container is too large, this is a standard size other cities use. The city did go an additional step in offering elderly and handicapped residents a smaller container. You have to plan for people having more garbage rather than less. The container does not have to go out each week. This is a good thing for city. Said there were two house fires in her neighborhood in one week, which is unusual for Brooklyn; and thanked the Fire Dept. for their quick responses. Asked Chief Zemek to review fire pit guidelines for residents, and encouraged residents to follow these safe practices. Also, if a resident has a pit with smoke drifting to a neighbor's house and property, there is a guideline to address that, and the Fire Dept. will come out to check if it is a nuisance. The Strategic Planning Committee met Oct. 1st and discussed: an update from the Mayor on cost cutting measures with timelines and implementation; outsourcing of Human Resources to Cuyahoga County (on hold), and other options of handling them; Law Dept. structure; previous offer to Linndale to offer ambulance services, and pitching to them again and actively pursuing it; idea of hiring a marketing firm; sink hole on Idlewood; clarification on purchase of turnout gear; update on healthcare committee. Another meeting is scheduled for October 15th at 6 p.m., with the agenda being to determine the process for soliciting quotes from marketing firms. A Town Hall meeting is being hosted by County Executive Ed FitzGerald, which will cover the District four, (Brooklyn, Parma, Parma Hts, Seven Hills, Linndale) on October 18th, 7-8 p.m. at Parma City Hall, where an update on the county will be provided and residents questions answered. She attended the harassment seminar presented for department heads by Cuyahoga County Human Resources last week. Thinks we're aware of some holes, and would like to see the training continue; also training on hiring and following appropriate practices, and other areas of harassment and discrimination.

Tony DeMarco: Congratulated Jerry Eschuk on his retirement from the city. Welcomed the new Police Officers and wished them the best. Commented on Ord. 2012-64 (for engaging outside law firm to handle contract negotiations with unions). The unions have all indicated they would like to negotiate and doesn't feel the Ordinance is premature. The firm has a track record for fair and balanced negotiations, and they were used previously. He supports the legislation. He is not supportive of any Ordinance for employee smoking ban on public property. The State of Ohio prohibits smoking inside public buildings, and that is as far as he would want it taken. Further expanded to say he is not in favor of a ban on public property for

employees, residents or guests. In regard to Ord. 2012-63 on the chickens, received many phone calls, none of which were supportive of this. He is not in support of it. The Mayor asked him to convey that is not supportive of the Ordinance as well. Passed along a Winter Lane resident's objection to the Ordinance also. Feels there are much larger issues for the city to address than spending the time and energy on this Ordinance. Feels Council is here to create an atmosphere and city with Ordinances to generate the greater good and not for a small select group of people. Commented to the members of the Board of Zoning Appeals that he hopes we are very judicious on the granting of variances, and it should be the exception, not the rule.

MAYOR'S REPORT:

The Mayor Balbier was absent.

DIRECTORS' REPORTS:

Service Dir. Verba: Reported the first week of automated rubbish pickup went very well. Houses were tagged that didn't have containers in proper position, and will do it for one more week, after which the container will not be picked up if it is not in correct position. Common problems noticed were: carts were put out with arrow facing house (must be facing towards street); cart placed too close to recycle bin and/or compost container; carts placed too close to telephone poles and trees (need 3-5 feet from obstructions). Asked residents to try not to park in front of neighbors' containers on collection day; but if there is, to put the container to one side or the other, in the apron for access. Additional trash that doesn't fit in the container has to be held until Fridays for special pickup, or placed in an additional purchased container from City Hall. (96 gallons are at cost of \$48.65) Special pickups are only on Fridays. Leaf pickup will be starting, leaves to be raked to treelawn when signs are posted – not into the street. Traymore west of Ridge construction started today. Beech and Morton castings are still be adjusted, and the subcontract will inform when the street will be paved, hopefully within two weeks. Thanked Jerry Eschuk for his hard work for last 30 years, and wished him good luck in his retirement.

Fire Chief Zemek: In regard to the fire pits, chimneys, etc.: must be 15 feet from any structure, contain a lid to prevent hot embers rising, smoke cannot be a nuisance to neighbors. If a resident calls and it is found offense, the Fire Dept. will request that the fire be extinguished. The rules are also on the website for review.

Police Chief Mielke: Stated he will be putting two 'Kids at Play' signs up on Outlook, and they are in the process of being ordered now.

Councilwoman Pucci asked Dir. Claussen to prepare a Resolution for the next meeting to honor Jerry Eschuk for his years of dedication and service to the community.

REQUESTS:

Request for liquor permit transfer from D.Ridge Road Gas, LLC at 3580 Ridge to SAO Investment, Inc. Councilwoman Pucci asked Chief Mielke if he was okay with it, and he said he was. **MOTION** by Pucci, second by C.Gallagher for a position of no objection. **VOTE RESULTED: No Objection:** Yes: C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. Abstain: VanKirk. No: None. **(NO OBJECTION)**

Request from Finance Director for authorization to continue in Bureau of Workers Compensation retrospective rating plan for policy year 2013. The 2013 premium costs are projected to be \$130,587. **MOTION** by Pucci, second by Murphy to approve continuing the individual retrospective rating plan for 2013. **VOTE RESULTED: Approve:** Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(APPROVED)**

LEGISLATION:

RESOLUTION 2012-14 (2nd Reading): To adopt the Solid Waste Management Plan from the Cuyahoga County Solid Waste Management District. **MOTION** by Pucci, second by VanKirk to suspend the rules, as

amended. **VOTE RESULTED:** *Suspend the Rules:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. *Adopt:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(ADOPTED, AS AMENDED)**

RESOLUTION 2012-15: Requesting the County Fiscal Officer to advance taxes from the proceeds of the 2012 tax levies pursuant to the Ohio Revised Code Section 321.34. **MOTION** by Pucci, second by C.Gallagher to suspend the rules. **VOTE RESULTED:** *Suspend the Rules:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(FIRST READING)**

ORDINANCE 2012-61 (3rd Reading): To add new Section 505.33, Restrictions on the Keeping of Chickens, to the Codified Ordinances of the City of Brooklyn, Ohio. Councilwoman K.Gallagher commented she's received a lot of phone calls on this, and stated the matters Council deals with at the local level are not always glamorous issues, and issues like this have to be dealt with when residents call. When a resident called Councilwoman C.Gallagher and requested to do this in the proper way, which others were doing in violation, what other option was there but to bring it to Council, and further asked President DeMarco what he would say to this person about this issue that he feels is not big enough to address on Council floor. **MOTION** by C.Gallagher, second by VanKirk to Table. **VOTE RESULTED:** *Table:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(TABLED)**

ORDINANCE 2012-63 (2nd Reading): Amending Ordinance 2011-15, Establishing Parma Hts. (Community Partner) rates at the John M. Coyne Recreation Center and Natatorium. **MOTION** by DeMarco, second by VanKirk to suspend the rules. **VOTE RESULTED:** *Suspend the Rules:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. *Adopt:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(ADOPTED, AS AMENDED)**

ORDINANCE 2012-62 (2nd Reading): Amending Section 1 of Ordinance 2010-33, Establishing fees for the Learn to Swim Program at the City of Brooklyn Natatorium and Outdoor Swim Complex. **MOTION** by Pucci, second by VanKirk to suspend the rules, as amended. **VOTE RESULTED:** *Suspend the Rules:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. *Adopt:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(ADOPTED, AS AMENDED)**

ORDINANCE 2012-64 (2nd Reading): Authorizing the Mayor to retain Johnson, Miller & Schmitz, LLP to conduct labor negotiations on behalf of the City of Brooklyn. **MOTION** by DeMarco, second by VanKirk to suspend the rules. Councilwoman Pucci said Dir. Claussen was to have amended it to include that there was to be a quote that the schedule is attached as Exhibit 1, dated Sept. 11, 2012. She commented that there is some controversy about this, and the Council does not get to select who the Mayor wishes to have negotiate, the Council authorizes the money and contract. It does not mean the process has to be acrimonious or confrontational, which she hopes it is not, on both sides. Agrees we need outside expertise in this area, so she will support it. **MOTION** by Pucci, second by VanKirk to amend as per Dir. Claussen's instructions. **VOTE RESULTED:** *Amend:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. *Suspend the Rules:* Yes: VanKirk, K.Gallagher, DeMarco, Pucci. No: C.Gallagher, Murphy. **(SECOND READING)**

ORDINANCE 2012-65: Amended Annual Appropriations Ordinance. Amending Ordinance 2012-5, as amended by Ordinance 2012-54, entitled, 'An Ordinance to make appropriations for the current and other expenditures of the City of Brooklyn, State of Ohio, for the period January 1, 2012 to December 31, 2012.' **MOTION** by Pucci, second by C.Gallagher to suspend the rules. **VOTE RESULTED:** *Suspend the Rules:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. *Adopt:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(ADOPTED)**

ORDINANCE 2012-66: Authorizing the Mayor to enter into an agreement with Civil and Environmental Consultants, Inc. (CEC, Inc.) to provide groundwater compliance services for the Sanitary Landfill for October 2012 in an amount not to exceed \$8,783. **MOTION** by Pucci, second by VanKirk to suspend the rules. **VOTE RESULTED:** *Suspend the Rules:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. *Adopt:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(ADOPTED)**

ORDINANCE 2012-67: Amending and repealing sections of Chapter 1521 of the Fire Prevention Code of the Codified Ordinances of the City of Brooklyn entitled, 'Flammable and Combustible Liquids." **MOTION** by Pucci, second by C.Gallagher to suspend the rules. **VOTE RESULTED:** *Suspend the Rules:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. *Adopt:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(ADOPTED)**

Councilman Van Kirk asked the Finance and Law Directors to address Mr. Adamski's comments regarding the landfill (current amount in closure fund and how much is budgeted for the fund; and a counter claim to the engineering firm). Dir. Esarey replied that the landfill account is in two pieces, the Landfill Closure account, which has \$2,862,726.85 and the Landfill Post-Closure account has \$1,290,554.26. Believes the amount budgeted is about \$176,000 to transfer from General Fund to Landfill fund at end of year. She can get the exact number later, as the exact number is not in front of her. Dir. Claussen said he won't publicly comment as to whether the city is doing any legal issue; but will state there has not been a complaint filed.

Councilman Van Kirk asked, in regard to Sheetz, was the question about the light asked at the original Planning Commission meeting, and was the traffic study included in the original proposal? Comm. Ockington said yes it was. Councilwoman K.Gallagher said the Planning Commission denied the whole plan, which is why it went to the Board of Zoning Appeals. Dir. Claussen said that Councilman Murphy stated the city told the Board of Zoning Appeals the city was against it, but the Board just tabled it. Councilwoman K.Gallagher said they tabled it based on his (Dir. Claussen's) suggestion that the Traffic Code states the Safety Director has the authority to determine whether a traffic light gets placed into the city. Dir. Claussen said they are waiting on the authorization. Councilman Murphy said he had commented that when it went to the Zoning Appeals Board they have the authority to say okay for the Conditional Use of the property, but cannot tell the city whether to put up a light or not. Dir. Claussen said that was correct. Councilman Murphy said there has been an objection to a light, and just because Sheetz has proposed a plan with the light in there doesn't mean the light goes in. Councilwoman K.Gallagher said, just to make the argument fair, is the other additional factor discusses was a meeting held between the Police and Fire Chiefs and Safety Director regarding the light, which was informal, and though there was an objection at first, they satisfied the requirements by the safety services. She does not know what happened at that meeting. President DeMarco said he has not been supportive of Sheetz since the beginning; but for the city to spend time and money in court for something that the city will lose, and trying our best to watch dollars and cents, to fund a traffic study is a very expensive endeavor. If the majority of Council wants to, that's fine, but it is not inexpensive, or contemplated in the budget. Councilman Murphy said if you agree to lay down because they will sue, Tiedeman Road will be a parking lot, and adding a light to Tiedeman Road is counter intuitive, and makes no sense. He would be for going to court. Councilwoman Pucci asked Dir. Claussen to explain the process for this situation, as the city is the entity that decides if the light goes up. Dir. Claussen said pursuant to the Ordinances of the city the Safety Director reviews safety matters, and if traffic allows the putting in of traffic lights, and then decide if a light should go on. That's what they are waiting on. Councilwoman asked Chief Mielke if there are specific criteria looked at when determining if a traffic light is appropriate or not. Chief Mielke replied there are nine different things that warrant it, and according to their study they met three of them. He also clarified that this is not about a traffic light, but rather a driveway on Tiedeman, which he has been against from the very beginning. If the city, looking at it from a safety standpoint, if a driveway is put on Tiedeman Road, safety wise a traffic light is needed there. Though he has always felt the access should be off of Cascade Crossing, and he and Comm. Ockington have discussed a possible right in and right out only driveway, and though he doesn't know where a driveway got approved; but as long as here is a driveway on Tiedeman Road, safety wise, a traffic light will be necessary. That is what his position is and has been, and what the informal meeting consisted of. Stressed if there is a driveway, there is a traffic light needed.

There being no further business, **MOTION** by VanKirk, second by Pucci to adjourn. **VOTE RESULTED:** *Adjourn:* Yes: VanKirk, C.Gallagher, K.Gallagher, Murphy, DeMarco, Pucci. No: None. **(ADJOURNED)**