

CITY OF GROVE CITY, OHIO  
COUNCIL MINUTES

April 07, 2014

Regular Meeting

The regular meeting of Council was called to order by President Berry at 7:00 p.m. in the Council Chambers, City Hall, 4035 Broadway.

After a moment of silent prayer and the Pledge of Allegiance, roll was called and the following members were present:

*Jeff Davis      Maria Klemack-McGraw      Ted Berry      Steve Bennett      Laura Lanese*

1. Ms. Klemack-McGraw moved to dispense with the reading of the minutes from the previous meeting and approved as written; seconded by Mr. Bennett.

Mr. Davis	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Lanese	Yes

2. President Berry recognized Ms. Sarah Jadwin, representing the OSU EcoCar 2 Team, who brought their car to the meeting tonight for everyone to see and enjoy. Sarah explained that this is a three-year student engineering competition that is sponsored by the U.S. Dept. of Energy and General Motors. The competition consists of 15 North American Colleges, who must completely redesign and re-engineer a 2013 Chevy Malibu into a more environmentally prone vehicle. This is their third year of the competition and they have been showing the car at different locations. The final competition will take place in June.
3. The Chair read the agenda items and they were approved by unanimous consent.

**The Chair recognized Mr. Bennett, Chairman of Finance, for discussion and voting under said Committee.**

1. Ordinance C- 12-14 (Appropriate \$3,500.00 from the General Fund for the Current Expense of the Art Concern Permanent Collection) was given its first reading. Second reading and public hearing will be held on 4/21/14.
2. Ordinance C-13-14 (Grant an Exceptional Circumstance for 3989 Broadway to Increase the Maximum Award under the Town Center Commercial Revitalization Grant Program) was given its first reading. Second reading and public hearing will be held on 4/21/14.
3. Ordinance C-14-14 (Appropriate \$196,040.00 from the General Fund for the Current Expense of Additional Improvements at Breck Community Park and declare an emergency) was given its first reading.

Mr. Bennett explained that this ordinance is trying to take care of adding additional parking for this new Park so there is enough parking when it opens.

Mayor Stage said doing this as an emergency and doing the parking improvements is fine, but there are other issues with this Park, citing the retention ponds and the bike path. Mr. Berry said as soon as there are solutions, bring them forward and they will get them addressed.

Mr. Boso, City Admin, pointed out that this ordinance also includes money for the engineering for bathrooms and historical signage.

Mr. Bennett moved that the Rules of Council be suspended and the waiting period waived; seconded by Ms. Klemack-McGraw.

Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Lanese	Yes
Mr. Davis	Yes

Mr. Bennett moved it be approved as an emergency measure; seconded by Ms. Klemack-McGraw.

Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Lanese	Yes
Mr. Davis	Yes
Ms. Klemack-McGraw	Yes

4. Resolution CR-17-14 (Waive the provisions of Section 139.05 of the Codified Ordinances for the Expansion of the Parking Area at Breck Community Park) was given its reading and public hearing.

Mr. Smith, Dir. of Law, explained that last year, the first phase of parking was bid through the competitive bidding process. They have talked with the contractor who was awarded that Bid and they have agreed to give the City the same price from that Bid for the extension of this parking lot. He said they are asking for a waiver to the bid process, so they can do this project under the original bid price.

There being no additional questions or comments, Mr. Bennett moved it be approved; seconded by Mr. Davis.

Mr. Bennett	Yes
Ms. Lanese	Yes
Mr. Davis	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes

**The Chair recognized Mr. Davis, Chairman of Safety, for discussion and voting under said Committee.**

1. Ordinance C-15-14 (Amend Section 537.17 of the Codified Ordinances titled Criminal Child Enticement) was given its first reading. Second reading and public hearing will be held on 4/21/14.
2. Ordinance C-16-14 (Amend Section 524.04 of the Codified Ordinances titled False Alarm Service Charges) was given its first reading. Second reading and public hearing will be held on 4/21/14.

**The Chair recognized Ms. Klemack-McGraw, Chairman of Lands, for discussion and voting under said Committee.**

1. Ordinance C-09-14 (Accept the Annexation of 0.505+ acres located at 2375 White Road to the City of Grove City) was given its second reading and public hearing.

Ms. Kacie Waugh, attorney representing petitioner, was present to answer any questions.

There being no additional questions or comments, Ms. Klemack-McGraw moved it be approved; seconded by Mr. Bennett.

Ms. Lanese	Yes
Mr. Davis	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes

2. Ordinance C-10-14 (Approve a Special Use Permit for Automotive Services for Block S. Corp located at 3188 Broadway) was given its second reading and public hearing.

Mr. Bob Bowshier, tenant and owner of Block a Corp., was present to answer questions.

Mr. Bennett asked if there would be a paint booth. Mr. Bowshier said there will be no painting and no auto body repair at all. It is only mechanical repair.

Mr. Boso said this was originally approved for auto use, but was changed to office use. They are now asking to change it back.

Mr. Bennett shared his concern for the possible unintended broadening of the Special Use, with respect to the sale of vehicles and/or junk cars sitting around. Mr. Bowshier said this is a Meineke franchise and that is not one of the services they provide. He confirmed that there will be no junk cars or cars for sale sitting around their business.

There being no additional questions or comments, Ms. Klemack-McGraw moved it be approved; seconded by Mr. Davis.

Mr. Davis	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Lanese	Yes

3. Ordinance C-11-14 (Approve a Special Use Permit for Outdoor Sales for Once Upon A Child located at 2221 Stringtown Road) was given its second reading and public hearing.

Ms. Susan Riley, representing the petitioner, was present to answer any questions. Mr. Bennett asked what protection there will be for prevention of tripping, etc. Ms. Riley said the bikes will be lined up against the window and will be anchored down with chain locks so they would be able to move.

There being no additional questions or comments, Ms. Klemack-McGraw moved it be approved; seconded by Mr. Bennett.

Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Lanese	Yes
Mr. Davis	Yes

4. Resolution CR-18-14 (Appeal the decision of the Board of Zoning Appeals granting a Variance for Planting on a Residential Lot for Larry Corbin located at 5000 Haughn Road) was given its reading and public hearing.

Mr. Larry Corbin, owner & petitioner, explained that he has a couple of farmers who want to farm his property and plant soybeans. They will plant and treat the land as USDA asks them to do. Mr. Bennett asked if they would be using regular sized farm tractors and harvesting machines. Mr. Corbin said yes, nothing out of the ordinary.

Ms. Klemack-McGraw asked if Mr. Corbin was aware that the property was zoned for residential and not agricultural uses. Mr. Corbin said yes. She asked if he was aware that he needed to get the property rezoned. Mr. Corbin said he wasn't asking for a rezoning, just a variance.

Mr. Davis asked if he spoke to the surrounding neighbors. Mr. Corbin said only one on the south side, and that neighbor had no problem with the farming. Mr. Davis said Mr. Corbin purchased this property when it was zoned residential and asked what his long term intentions are for the property. Mr. Corbin said he may want to rezone it for apartment use in the future, but is not in a position to pursue/invest in that now; and he may never decide to do it.

Ms. Lanese asked if he was the original land owner who annexed it into the City. Mr. Corbin said he was and had it annexed. Ms. Lanese asked if he would be willing to work with the surrounding property owners to minimize their concerns with spraying and their health concerns. Mr. Corbin said he is not a farmer, but have been told that those who would be farming it will do so in the same way it is done with any piece of land in the State. Ms. Lanese asked what concern he has for the neighbors. Mr. Corbin said he shares their concern and has sympathy for their health issues, but the neighbors said someone told them nothing would be done with the land, and he never told anyone he would leave it alone.

Mr. Thomas McCash, attorney representing two adjoining property owners, who asked the City what the zoning was for Mr. Corbin's property before they purchased their condominiums and was told "single-family residential". He noted that his clients were present at the BZA hearing. He said Mr. Corbin is asking for farming, not planting, with chemicals and pesticides. Something you would see in a rural area, not a single-family district. He said this variance is actually two-fold: it varies from area and it varies from use. There are two different standards used: practical difficulty for an area variance; and unnecessary hardship for a use variance. He said if you look at the requirements in the City's Code, it dictates that all the requirements must be met to receive a variance. He pointed to requirement #5 - *The Special conditions and circumstances do not result from the action of the applicant*, and stated that Mr. Corbin fails in that requirement. It was Mr. Corbin who applied for annexation and accepted the single-family residential zoning when he did that. He said he could have left it in the Township and continued the farming use there. Mr. McCash said the City has a rural zoning district that allows agricultural uses. However, it also addresses health & safety and noise & odor as part of it. If Mr. Corbin can meet the standards, he can rezone it for Rural. Mr. McCash said he went through each one of the components Mr. Corbin gave, in the application, for his rationale for granting the variance. None of the six he listed are a basis for granting a variance. Mr. McCash asked Council to uphold the Resolution and overturn the BZA approval.

Mr. Curt Evans, contiguous property owner, submitted a letter to Council that included a letter from his doctor and a letter from his wife's doctor. He explained that they have severe nerve damage. They are both on 100% disability. His wife also suffers from severe COPD. The chemicals used in farming will adversely affect their health. He said other neighbors have emailed their opposition to the variance to the BZA. He said this variance should be overturned based on the literal enforcement of the city's own ordinances. Clear cut adverse health effects of adjacent property owners have established a medical certainty by their physician's statements, as well as cited Ohio Case Law precedence.

Ms. Cindy Howell, neighbor, voiced concern over the use of chemicals on this property. Both she and her husband have health issues and fear that the chemicals used so close to their house could cause

possible further nerve damage. She said she has allergies and have been treated for pre-cancerous spots. She said they did not get any notice for the variance and their property is the closest to the property in question. She provided pictures to show how close they are. She said she doesn't feel the process was fair. She submitted a note from her dermatologist. Ms. Howell asked Council to overturn the variance.

Mr. Davis commented that this is quite a difficult decision for him. He said at first blush, he thought that farming would be fine. However, when he found that surrounding neighbor's had concerns, he met with the Evans' and believes there is genuine concern by the neighbors. He said the best suggestion he can make is for Mr. Corbin is for him to speak with the neighbors and see if there is some compromise that can be reached. He said there might be some way that the neighbors could be satisfied.

Ms. Klemack-McGraw commented that she has known Larry and Sue for years and has great respect for all that they have contributed to the community. However, as much as she may want to grant a favor to the Corbin's, their generosity does not provide them with any special consideration under the law. All members of Council took an oath to uphold the Constitution, Laws of the State and the City Code. She read each of the six (6) conditions that must be met to receive a variance. She gave her reasons why she feels each of these conditions were not met.

Mr. Berry said he loves agriculture and growing things, and this is a hard decision for him as well. He wondered if Mr. Corbin would consider a community garden where no chemicals or spraying with pesticides/herbicides are used. The parcel would be divided into lots that many individuals could rent from him and have a personal, organic garden.

Ms. Lanese said she struggled with this also. However, the medical documentation today shows that this could be seriously detrimental to surrounding land owners. She also feels that people who are within our City borders have a reasonable expectation that we are not going to change their zoning or what they bought into. She said she thinks we need to honor those reasonable expectations of the surrounding property owners.

There being no additional questions or comments, Ms. Klemack-McGraw moved it be approved; seconded by Ms. Lanese.

Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Lanese	Yes
Mr. Davis	Yes
Ms. Klemack-McGraw	Yes

**The Chair asked that any new business to be brought before the attention of Council be done so at this time.**

1. Mr. Bill Ferguson, resident, reported on an e-mail that he sent to Council and members of the Administration concerning information he discovered about cameras that were placed on top of City Hall by Sound Communications. He stated that the cameras were used beyond the contract period. All the documentation has been shredded. He asked Council to protect the rights of the people. He feels there should be a check and balance on 1 year contracts through Council, as well as a change in the shredding policy. Mr. Berry asked Mr. Smith to elaborate. Mr. Smith explained that Sound Communications approached the City to do a pilot program whereby they would install cameras on top of City Hall and perform a "proof of concept" so they could sell this product. This was at no cost to the city. He said they signed a one-year contract with Sound Communications to allow for this and did not renew at the end of the year. However, the cameras did not come down until Mr. Boso came in to office and noticed them. Mr. Berry asked if the cameras were being used after the trial period. Mr. Smith said he believes so. Mr. Berry asked who had access to them. Mr. Smith said the Police Department had the ability to go view them. He said he is unaware of anyone else, except perhaps the

employees of Sound Communication, but there is no documentation that they did. Ms. Lanese asked if the recordings were destroyed and were they retained for a certain period. Mr. Smith said they were retained per the City's Records Retention Schedule and were destroyed once the time limit was up. He said all public records meetings are open to the public and anyone can suggest a change to the Schedule.

Mr. Hurley, Info. Systems Director, explained the history of this Program/Agreement. He said, as for retention of the images, the value of the images drops off dramatically after 30 days and is kept for 60 days. He said the police department had a log-in to access images, and he had access. He said they reviewed this product and found that there were better alternatives, so no monies were ever given to Sound Communications. Mr. Berry asked if there was ever a written agreement that outlined who would have access and how the cameras would be used. Mr. Hurley said he recalls the original agreement. Mr. Berry said he doesn't have a problem with security cameras for public safety, used by our Safety Division. He said he has a problem with a private company recording citizens off a public building for personal service, and they were not contracted to do so. Mr. Berry asked the Administration to get Council a copy of the contract.

Ms. Lanese asked if there was any communication between the City and Sound Communication while the cameras were up. Mr. Hurley said he did have communication with Sound Communication. He said the last time he asked about it, they had a difficult time pulling it up. Ms. Lanese asked if at the end of the year they just forgot to take them down. Mr. Hurley said he thought there may have been a renewal, but they weren't really using them and getting much out of them.

Mr. Bennett asked if we have any evidence or any understanding that other cities or companies could dial in and take a look and see how this system was working while they were in place on our building. Mr. Hurley said they were trying to market a wireless product. He did get phone calls from a few other municipalities asking about the product.

**The Chair recognized members of Administration and Council for closing comments.**

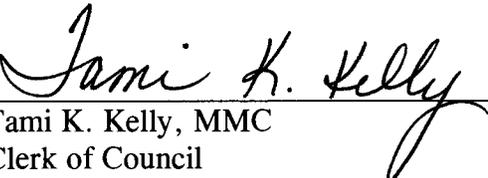
1. Mayor Stage submitted the Mayor's Court Report and Mr. Berry moved to accept same; seconded by Ms. Lanese.

Mr. Bennett	Yes
Ms. Lanese	Yes
Mr. Davis	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes

He then reported on upcoming events.

2. After comments from Council and Administrative staff members, a motion to adjourn was approved by unanimous consent.

Council adjourned at 8:22 p.m.

  
Tami K. Kelly, MMC  
Clerk of Council

  
Ted A. Berry  
Chair