

CITY OF GROVE CITY, OHIO
COUNCIL MINUTES

August 15, 2005

Regular Meeting

The regular meeting of Council was called to order by President Saxton, at 8:00 p.m. in the Council Chamber, City Hall, 4035 Broadway.

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

Robert Hatley Rich Lester Bill Saxton Maria Klemack Vaughn Radi

1. Mr. Lester moved to excuse the Mayor; seconded by Mr. Radi.

Mr. Lester	Yes
Mr. Hatley	Yes
Mr. Saxton	Yes
Ms. Klemack	Yes
Mr. Radi	Yes

2. Mr. Lester moved to dispense with the reading of the previous meeting minutes from 7/27 & 8/01 and approve as written; seconded by Mr. Radi.

Mr. Hatley	Yes
Mr. Saxton	Yes
Ms. Klemack	Yes
Mr. Radi	Yes
Mr. Lester	Yes

3. The Chair read the agenda items and they were approved by unanimous consent and President Saxton moved that Ord. C-76-05 be moved to the end of the agenda; seconded by Ms. Klemack.

Mr. Saxton	Yes
Ms. Klemack	Yes
Mr. Radi	Yes
Mr. Lester	Yes
Mr. Hatley	Yes

The Chair recognized Mr. Hatley, Chair of Finance, for discussion and voting of legislative agenda items under said Committee.

1. Ordinance C-80-05 (Appropriate \$123,688.26 from the Bond Retirement Fund for the payment of Debt Services and to declare an emergency) was given its first reading.

Mr. Behlen, Dir. of Finance, explained that at the last meeting Council adopted an ordinance for the refinancing of bonds. There was some concern with the State Auditor's, during the last audit, about the procedures. In order to make sure there is no further confusion, this clarifies what was received from the prior year.

There being no additional questions or comments, Mr. Hatley moved that the Rules of Council be

suspended and the waiting period waived; seconded by Ms. Klemack.

Ms. Klemack	Yes
Mr. Radi	Yes
Mr. Lester	Yes
Mr. Hatley	Yes
Mr. Saxton	Yes

Mr. Hatley moved it be approved as an emergency measure; seconded by Mr. Radi.

Mr. Radi	Yes
Mr. Lester	Yes
Mr. Hatley	Yes
Mr. Saxton	Yes
Ms. Klemack	Yes

2. Ordinance C-81-05 (Appropriate \$32,700.00 for the cost of Severance and Temporary Staffing of the Finance Department) was given its first reading. Second reading and public hearing will be held on September 06, 2005.
3. Ordinance C-82-05 (Appropriate \$16,230.00 from the DARE Fund for the Current Expense of Program Expenses) was given its first reading. Second reading and public hearing will be held on September 06, 2005.
4. Ordinance C-83-05 (Appropriate \$2,451.82 from the Elm Street Project Fund for the Current Expense of Project Costs) was given its first reading. Second reading and public hearing will be held on September 06, 2005.
5. Ordinance C-84-05 (Appropriate \$791.37 from the Drug Law Enforcement Fund for the Current Expense of Police Equipment) was given its first reading. Second reading and public hearing will be held on September 06, 2005.
6. Ordinance C-85-05 (Appropriate \$46,800.00 from the Sewer Fund and \$74,784.00 from the Water Fund for the Current Expense of the Sewer & Water Tap Fee Rebate Program) was given its first reading. Second reading and public hearing will be held on September 06, 2005.
7. Ordinance C-86-05 (Appropriate \$7,146.51 from the General Fund for the Current Expense of Vehicle Repair) was given its first reading. Second reading and public hearing will be held on September 06, 2005.
8. Resolution CR-61-05 (Authorize the City Administrator to Seek Financial Assistance from the State Capital Improvement Program/Local Transportation Improvement Program for Funding of Various Capital Infrastructure Improvement Projects) was given its reading and public hearing and Mr. Hatley moved it be approved; seconded by Ms. Klemack.

Mr. Lester	Yes
Mr. Hatley	Yes
Mr. Saxton	Yes
Ms. Klemack	Yes
Mr. Radi	Yes

The Chair recognized, Ms. Klemack, Chairman of Safety, for discussion and voting of legislative agenda items under said committee.

1. Ordinance C-87-05 (Amend Section 333.02 of the Codified Ordinances titled Reckless Operation on Streets, Public or Private Property) was given its first reading. Second reading and public hearing will be held on September 06, 2005.
3. Resolution CR-62-05 (Adopting the National Incident Management System and Directing all First Responders to become Certified by completing the required NIMS Training) was given its reading and public hearing.

Mr. Behlen, Dir. of Finance, explained that NIMS is a national standard for training first responders. It assists us in getting federal funding for 911 or police or fire issues. We have been conducting this on-line training for our police officers and other members on staff. By formally adopting this plan, it formalizes the requirement. *Mr. Hatley* asked how much it costs per employee and how much we can hope to recover. Mr. Behlen and Chief Deskins said it only costs the City the time it takes to go through the training. Mr. Hatley asked how long it typically takes to go through the training. Chief Deskins said about 30 – 45 minutes.

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

Mr. Hatley	Yes
Mr. Saxton	Yes
Ms. Klemack	Yes
Mr. Radi	Yes
Mr. Lester	Yes

The Chair recognized, Mr. Lester, Chairman of Lands, for discussion and voting of legislative agenda items under said committee.

1. Ordinance C-79-05 (Approve the Plat of Autumn Grove, Section 1 located on the North side of Rensch Road) was given its second reading and public hearing.

Mr. Lester explained that there were some concerns in Caucus that some of the items on the plat do not appear to be correct or accurate. Even though there was no representative from the Developer, there was a representative from the Engineering Company.

There being no additional questions or comments, Mr. Lester moved it be postponed to 9/6/05; seconded by Mr. Hatley.

Mr. Saxton	Yes
Ms. Klemack	Yes
Mr. Radi	Yes
Mr. Lester	Yes
Mr. Hatley	Yes

2. Ordinance C-88-05 (Approve the Special Use Permit for Giant Eagle Inc. for a Gasoline Station located at 2170 McDowell Road) was given its first reading. Second reading and public hearing will be held on September 06, 2005.

Mr. Lester requested that the agent for the petitioner be contacted to obtain a traffic pattern exhibit for the

tanker truck; to reference if they intend to have any outside sales; request that they notify the adjacent property owners; and clarify if they have separate alcohol sales for the convenience center from the store.

3. Resolution CR-63-05 (Approve the Development Plan for Parkway Centre East located East of Buckeye Parkway and South of Stringtown Road) was given its reading and public hearing.

Mr. Sean Cullen, Continental Real Estate, was present to answer any questions. He said they have carried through what they have started on the South and North developments. He said there were 10 stipulations and they have no issues with them. Mr. Lester commented on stipulation #3, with regard to the building & signage heights. Mr. Lester just wanted it understood that while the plans may show specific heights for these items, they are not being approved with the development and the stipulation stands. Mr. Cullen said he understood and would be filing for a variance on those items. Mr. Clark, Dir. of Law, said the way stipulation #3 is worded, it could be inferred that a 35' height is acceptable, however, anything over eight feet would require a variance.

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

Ms. Klemack	Yes
Mr. Radi	Yes
Mr. Lester	Yes
Mr. Hatley	Yes
Mr. Saxton	Yes

4. Resolution CR-64-05 (Approve an Amendment to Sub-Area "C" of the Development Plan for The Pinnacle Club located South of White Road) was given its reading and public hearing.

Mr. Don Plank, attorney for petitioner, was present to answer any questions and explained that this is a simple change to one road. The road running through Section C would be cul-de-sac'd, rather than taking it out to Holton Road. Mr. Lester said he understood this to be a County Engineer's requirement. Mr. Plank said the County Engineer required more improvements than they were willing to do or the City wanted to do, and it really made no sense to go out at that location. Mr. Lester asked how many lots would be lost. Mr. Plank said, right now, it is lot neutral. Once final engineering is complete, they may lose one lot.

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

Mr. Radi	Yes
Mr. Lester	Yes
Mr. Hatley	Yes
Mr. Saxton	Yes
Ms. Klemack	Yes

5. Resolution CR-65-05 (Approve the Development Plan for Giant Eagle Gas Station located at 2179 McDowell Road, in the Derby Square Shopping Center) was given its reading and at the written request of the petitioner, Mr. Lester moved it be postponed to 9/6/05; seconded by Mr. Radi.

Mr. Lester	Yes
Mr. Hatley	Yes
Mr. Saxton	Yes
Ms. Klemack	Yes
Mr. Radi	Yes

The Chair returned to Ms. Klemack, chair of Safety, for discussion and voting of the last item.

1. Ordinance C-76-05 (Repeal Section 521.20 of the Codified Ordinances of Grove City, Ohio titled Smoking Prohibited and Enact a New Chapter 522 titled Smoking Prohibitions) was given its second reading and public hearing.

Ms. Klemack recognized Mr. Radi who explained that at the last meeting there were a number of changes proposed and discussion took place over those changes. Mr. Clark felt it would be in their best interest to put together a concise piece, placing all the amendments together into one document. That is ready this evening and he explained that it would include three (3) additional exemptions under Section 522.03. He read these exemptions and the new definitions to be added under Section 522.01. Mr. Radi moved that Exhibit “A” be replaced with Revised Exhibit “A” dated 8/15/05; seconded by Ms. Klemack.

Mr. Hatley	Yes
Mr. Saxton	Yes
Ms. Klemack	Yes
Mr. Radi	Yes
Mr. Lester	Yes

President Saxton commented that he feels this has been watered down more than it should be, but in the spirit of cooperation and his strong belief that even this ordinance is better than no ordinance at all.

Mr. Hatley reiterated the comments of Mr. Saxton. He is in favor of a total ban, but he will support this, as something is better than nothing.

President Saxton recognized each speaker who signed the Speakers List:

Mr. Arthur Eversman, representing the charitable bingo games of OLPH and GCKA expressed thanks to Council for their actions. With the passing of this compromise amendment, they have made this ordinance into something that should not financially cripple more than a dozen businesses and charitable organizations. It is not perfect for everyone, but it is better than originally written. The financial impact will be lessened and affect a fewer number of businesses. They may not like everything about the ordinance, but by compromising you keep Grove City moving in a positive direction. He said it is an ordinance that he would vote for if he were still serving on City Council. President Saxton commented that he was at OLPH after the bingo game and asked if they would be looking into doing something to get rid of the smoke smell. Mr. Eversman said they would look into that and see if there are some mitigating steps they can take.

Mr. Bill Myers, resident, express his disappointment over what appears a majority of Council will enact this evening, which is a dirty indoor air ordinance for Grove City. He said the majority would bow to a vocal minority, which he grudgingly admits, played their cards very well. He said a few more restaurants will go smoke free, which is a positive step, but he doesn’t think it goes far enough. He also feels it creates an uneven playing field for any new business, who must be smoke free. During these meetings, Council has indicated that their primary concern was to protect the health of children. He suggested that in two locations, they have not done that – OLPH, and perhaps Beulah Park. He encouraged Council to pay for a study at these locations, if they want to document the lingering effects of second-hand smoke and the lingering effect it has on children. *Mr. Hatley* said while he may agree with Mr. Myers, something is better than nothing. However, his biggest disappointment is that the grout that Mr. Myers represents had an extremely poor representation at all of the meetings Council had. If they went by the people who came to the meetings and took the time to state their views, Council wouldn’t be passing any

kind of an ordinance, because it was overwhelmingly against any type of a ban. So, shame on the smoke-free people for having virtually nil representation at the four public meetings that Council had. Mr. Myers said he agreed. The proponents for indoor clean air were not here. *President Saxton* said he and Mr. Hatley said they toured Beulah Park and saw all the places where Beulah has blocked off areas for no smoking. He was impressed with the job Beulah has done.

Mr. Lloyd Sheets, resident and firefighter, expressed his extreme disappointment with the amended version of the ordinance. He said Council doesn't believe in facts. He said one person should be enough to come to these meetings to prove that smoking kills people. He said the ordinance does nothing to help people who can't help themselves. He believes in a total ban. He said this ordinance makes Grove City the ashtray of Franklin County and does not protect people. He said Council should vote in what they believe is right, not just go with the group.

Mr. Rick Dawson, resident, said he thought Council's job was to protect the citizens. He is grossly disappointed with Mr. Hatley's comments and said he should have done a survey in his Ward. Mr. Hatley said he did do a survey. He said Council has created a bunch of confusion and will take his discretionary money outside of Grove City to eat at restaurants, etc. He is disappointed in not going for a total ban. Those seeking reelection, which did not vote for a total ban, he will do everything he can to see that they are not elected.

Mr. Steve DeVore, Stardust Lanes, said he finds it hypocritical that you can smoke in a church, but on in a bowling alley. It is also hypocritical that three gambling organizations are going to get exemptions. He said he never thought he would be in a position to say that a total ban is the only way to do it. He still believes that there should be no ban at all. He said the man who spoke about spending his discretionary funds has the discretion to go into either a smoking or non-smoking establishment. He does not strong arm anyone to go into his bowling center. He said there should not be a ban at all, but if they are going to do it- it should be all the way. It is either o.k. or its not.

Mr. Lawrence Kisner, resident, said we already have a choice. There are a lot of little white crosses in Arlington Cemetery representing the men and women who have died for the freedoms of this Country. He said he served this Country for six years to have these rights. If this goes through, it would take 80 people out of the bowling alley, two nights per week. He questions if there would be 80 non-smokers to take their places. He said there is already a choice. It is a right we all have.

Mr. John Besst, resident, voiced opposition to any smoking ban at all. He believes it is person's choice whether they walk through a door or not. They vote with their feet and wallet and it should be their choice. He requested Council vote for no smoking ban at all.

Ms. Pam Parker, owner of Parker's Tavern (formerly Shedrow), thanked Council for what she knows was a difficult decision. She said she doesn't want to seem ungrateful, but feels that businesses should have the right to choose. She said she doesn't believe Council should limit people's choices – let the owners decide and let patrons decide. She said children bowl and doesn't feel they should have to be 18 to enter. As far as protecting people, if this ban goes through it will protect children. All in all, she thinks businesses should be allowed to decide and let patrons decide where they want to spend their money.

Ms. Shelly Williams, resident, voiced opposition to any ban at all. She feels sorry for the bowling alley, but is grateful that there will still be a handful of places for smokers to go. She thanked them for allowing smokers to keep their freedom.

Mr. Radi commented that as has been evidenced by the speakers Council has had, this issue runs the gamut from absolutely no smoking anywhere in the City to no smoking ban at all. He said he is shocked at the negativity from the no smoking proponents. He said he understands and realizes that this is not perfect. When you have people at the extremes of opposition and support and everywhere in between, it is not easy to make a decision. The council members have all be agonizing over this decision and trying to do what is right and what is fair. He said this gives Grove City the opportunity to move forward by providing non-smoking establishments for any new business that would come along. It does offer a level playing field, in that the new businesses will know the rules. The old businesses were playing over different rules when the established their businesses and put their life savings into them. He said he would not put them out of business. There will only be a handful of establishments that would be eligible for the exemption. He said when he did his survey in his Ward, most wanted non-smoking in restaurants. When asked about bars, they said they didn't care, if a bar wants to have smoking it would be o.k. He said knocking on doors is certainly not as sufficient as having these meetings. He feels this is a positive step and does the best they can do.

Mr. Hatley said at the beginning of this process, there would be a significant group of people irritated by what they do. He attempted to get this question on the ballot, but Council doesn't have that authority. The people do. So, when Council passes legislation, they have the authority to go out and knock on doors and get a petition signed and get this on the ballot. He reminded them of that. He said there isn't support among Council to pass a total smoking ban. Of the several hundred people he talked with in his Ward and the telephone calls he received and the people who have come to the four meetings on smoking that basically said they were concerned about restaurants. They didn't care about bars, they just wanted go to a restaurant and not have smoke. By passing this ordinance, virtually every restaurant in Grove City is going to be smoke-free, unless they want to limit their patrons to 18 years old and over. So, to the majority of people he spoke to, this will solve their issue. He said enforcement should be very simple. A sign will be posted showing that they are a smoking facility. He hopes that the State of Ohio will address this issue and make the whole State smoke free, which would solve a lot of issues.

Ms. Klemack said she came here seeking freedom and believes in choice. With a complete ban, there is no choice.

President Saxton asked Chief Deskins how difficult it would be for the Police to enforce. The Chief said when this issue was originally brought up, he said they felt a full ban would be easier to enforce. He said he is not an attorney or prosecutor, but does have some concerns over the constitutionality of the ordinance. However, whatever is passed will be enforced. They will have to do a little studying of this ordinance. Mr. Clark commented that they have assessed this a number of times before. Council understands that this is a little different from some of the other cities in the County. It has been structured after other communities, but it is different. He said he feels it would be upheld in court, otherwise he wouldn't let them pass it.

Mr. Lester commented that ordinances are amended as the environment changes. This ordinance also stands the chance of being amended in the future if it becomes necessary. He said the City, patrons and business owners have the ability to control what goes on. He said Council is clearly divided and because of that, it created the necessity to create the amendments so an agreement could be reached among the five of them. He said they are not debating facts, but this allows Grove City businesses to phase themselves out. Government doesn't need to get into a businesses operation. They are free to handle the business in a lawful way. As he has said all along, he does not support a smoking ban and maintains that opinion.

There being no further questions or comments, Ms. Klemack moved it be approved; seconded by Mr. Radi.

Mr. Saxton	No
Ms. Klemack	Yes
Mr. Radi	Yes
Mr. Lester	No
Mr. Hatley	Yes

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

1. Mr. John Hensley, resident on Cleveland Ave., commented that he is still waiting to hear about the detention pond for the west side of Grove City. Mr. Radi stated that the ponds has been build and operational for the past 10 months. He said it is located South of Marsol and West of Demorest. Mr. Hensley then asked about the railroad tracks on Grove City Road. He said the tracks come up and smack the underside of your car. You can watch the boards come up a foot. Mr. Saxton said it is the railroads property. Mr. Clark commented that the Mayor has been working on this for a number of months for all three crossings (Grant, Park St., & G.C. Rd.). She has lobbied with the PUCO and has authorized him to take any and all action that the City can to get this taken care of. He said it does take some time, but the Mayor is doing everything possible to get it taken care of.

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

1. Council thanked everyone for their participation in the debate over the smoking issue. They expressed condolences to the Burnholtz family on the loss of Lance Corporal Eric Burnholtz. This is the first soldier lost in Grove City. Ms. Klemack and Mr. Hatley commented on the outpouring of support of the residents during the funeral procession. It made them very proud to see and participate in. Mr. Hatley said they have been friends of the family for 15 years and also expressed pride in the city. He thanked everyone for their support.
2. President Saxton announced that the next regular meeting of Council would be held on Tuesday, 9/6/06, in observance of Labor Day.
3. After additional comments from Council and other Administrative staff members, a motion to adjourn was approved by unanimous consent.

Council adjourned at 9:10 p.m.

Tami K. Kelly, MMC
Clerk of Council

William E. Saxton
President