

**Rittman City Council Met in  
A REGULAR MEETING  
on Monday, August 8, 2011 at 7:00 p.m.**

**Members Present:** Rick Hanlon, Lynn Beaumont, Richard Lapehn, Steve Johnson,  
Darrell Carey and Glen Russell

**Members Absent:** None

**Presiding:** Mayor William Robertson

Invocation was given by Barbara Brooks, clerk followed by the Pledge of Allegiance

**Approval of Minutes – July 11, 2011**

Hanlon so moved, upon roll call; Carey-Abstain, Hanlon-Yes, Russell-Yes, Beaumont-Yes, Lapehn-Yes, Johnson-Yes and **motion carried.**

**Workshop**

**a. Presentation by Donald Eager of Wayne County Fair Housing**

Don Eager of the Wayne County Fair Housing board advised this was part of their annual requirement to qualify for CDBG (Community Development Block Grant) funds and his office handles situations specifically related to tenant/landlord issues. He advised they get 2-3 calls a month from people in the City of Rittman. Eager advised they try to serve as the housing resource for the residents and they do everything from helping people pay rent/mortgage, tenant/landlord issues, look for housing and answer questions from A to Z with regards to housing. He advised if they receive calls from people who have issues with housing they could give out their toll free number (1-800-850-0467) or handout any of their flyers. Eager advised the issue recently with tenants seems to be regarding mold.

Mayor William Robertson inquired if they were finding any real issues with mold.

Eager advised there has been a lot of rain and basements were damp or areas in the home that tend to be wet such as behind the toilet, but no, most of what they find is not the true dreaded black mold. He advised there was one tenant they were working with that it was causing some respiratory issues. Eager advised many of the calls are from families with children who were concerned.

Robertson inquired if they (Fair Housing) expected a tenant to first talk to their landlord before contacting them,

Eager advised the first question was always if they were current in their rent because they couldn't really help them unless they were update on their rent. He advised then we ask if they have talked with their landlord and to put everything in writing and try to work it out with the landlord first. Eager advised because of the way the Ohio Tenant/Landlord Law is written, the tenant has to initiate the action and if it gets really bad they would call the landlord. He advised they have not had to do that thus far. Eager advised Rittman Acres was always an issue, but he believed that was mostly due to the constant change in managers.

No further questions.

**b. Discussion of Guidelines for the Board of Equalization for Sidewalks**

City Manager Boggs advised he did quite a bit of research online and only two (cities) he found were in their ordinances and they were Wadsworth and Wooster. He advised he provided a copy of Wooster's regulations regarding sidewalks to Council in their packets. Boggs advised it addresses the issue of cracked sidewalks and as Council previously expressed that just because a sidewalk was cracked did not mean they were unsafe. He advised it talks about the size of the crack indicating its need to be repaired. Boggs advised it also talks about unevenness or scaling and drainage issues and particularly regarding a trip or stumbling hazard. He advised he would recommend adding this section to the existing sidewalk ordinance so everyone knows what the guidelines are (for sidewalk replacement).

Beaumont clarified that this didn't in any way change the fact that someone who doesn't have sidewalks still has to put in sidewalks.

Boggs agreed. He advised this was the (proposed) guidelines for existing sidewalks before they are made to be repaired. Boggs advised after the last meeting he received several phone calls to come recheck several properties and there were several he removed from the list that were not a trip hazard. He advised he believed there were 6-8 property owners who filed (an appeal) for the Board of Equalization and they (the board) was going to need some kind of guidelines from Council on how those should be handled.

Robertson inquired if he meant guidelines beyond the ones discussed that were included in the packet (from Wooster's regulations).

Boggs indicated they (equalization board) would certainly get (appeals) from those who were informed they had to install sidewalks where none exist, although he believed most of the concerns were from those with existing sidewalk who don't believe they should have to replace it.

Johnson inquired if (City Manager) was suggesting they make the copy of Wooster's sidewalk regulations a part of Rittman's sidewalk ordinance.

Boggs advised it was up for discussion tonight and the Law Director could draft something for the next meeting. He advised if Council knew this was what the policy was going to be they could provide a copy to the Board of Equalization.

Hanlon advised he believed this about covered it as far as what the board was looking for (as far as guidelines). He advised he couldn't think of anything to add or take away from the list.

It was noted, they could amend the ordinance under New Business.

Bower advised he could tweak it a bit to fit Rittman's code vs. Wooster's.

### **Citizens Forum**

Dave Tabaka of Pleasantview Dr. advised last meeting one of the main concerns he brought up about the sidewalk program was the language in the resolution that did not specify that all parts of town would eventually be included in this program, but it explicitly said that they would not. He advised to reiterate he read the line from section one after describing the phase one area, "*And permitting voluntary participation in this project for those who choose in other parts of the city as funding allows*". Tabaka advised in response to his concern the City Manager sent him a copy of an old ordinance that was supposed to alleviate that concern. He advised what he basically got was a copy of an ordinance from 1971 section (e) (1) with the only change being that 70% was in parenthesis. Tabaka advised frankly he didn't see anything that talks about the scope of enforcement and it didn't seem to him to alleviate that concern that they were not explicitly spelling out the whole plan. He advised the phase I residents could make the argument that quite frankly there were other sections of town more in need of this (program) other than phase I. Tabaka advised there were entire neighborhoods completely devoid of sidewalks such as the area north of Home Street. He advised he didn't see where this (legislation) was clear to people that this (program) was going to be enforced elsewhere in town. Tabaka inquired if there were any special provisions for zoning or land use such as churches. He inquired if churches were going to be mandated to replace or install sidewalks.

Robertson advised he didn't see where they would be exempt and he didn't believe there was anything discussed regarding exemptions.

Tabaka advised so as far as they knew the ordinance would apply to any property owner that would fall in the current phase. He advised at the corner of Sunset and DeCoursey there was a church and he inquired if they were being made to install sidewalks.

Boggs advised on the portion that is seeded, yes, but the portion of the property that is blacktopped, no.

Tabaka advised the grass area was on DeCoursey.

Boggs advised there were specific names of streets and north, south, east and west listed in the ordinance that specifies the target area for phase I. He advised the portion of their (Calvary Baptist Church) property was not in the target area on DeCoursey. Boggs advised on W. Sunset they were putting in the sidewalk (in the grass area) that would go to the blacktop.

Tabaka inquired as to the blacktop area.

Boggs advised no.

Tabaka inquired why not. He advised it says in section (e) *sidewalks will be concrete with a minimum width of five feet*. He inquired if they were making an exception.

Boggs advised he didn't feel it was necessary to put in a sidewalk that wasn't connecting on the other sides and was currently a level area.

Tabaka advised he was just going by the language of the ordinance and it says that sidewalks will be concrete. He advised if they were making an exception there he was asking by what authority were they doing so.

Boggs advised that was his judgment call and Council could override it if they like.

Tabaka inquired if they could make judgment calls on ordinances being enforced on other people without some sort of authority such as a waiver program.

Lapehn advised he believed installed sidewalks would be concrete and that would be how he would interpret that sentence. He advised he would also say there were probably (going to be) driveways where there were sidewalks that meet the driveway and that driveway has been asphalted covering over the concrete sidewalk in the driveway. Lapehn advised to him that was still a proper sidewalk because it connected the concrete sidewalks together although it would no longer be concrete on the surface. He advised he would interpret, "*sidewalks shall be concrete*" to mean the installed material. Lapehn advised the judgment call was to end the sidewalk at the paved lot on an even segment.

Tabaka advised he was going by the explicit language in the ordinance and it says *shall* not may or should be, but *shall*. He advised that means they will be concrete unless there was some

exception being made in which case there would need to be an authority to make that exception. Tabaka advised they couldn't just indiscriminately enforce an ordinance in one place and not in another.

Lapehn advised he felt it said somewhere that the City Manager or some sort of designee would make such judgments.

Carey advised there was a map indicating the different phases to have their sidewalk improved and those phases were included within the whole city.

Boggs advised the map of phase I specifically listed it as ending at that (Calvary Baptist Church) parking lot.

Hanlon advised they were going to run into the same problem at Laria Management. He inquired if he (Tabaka) was suggesting they (city) call Laria and tell him he had to put 500' of concrete in. Hanlon advised he didn't think so.

Tabaka advised he didn't find anything granting the City Manager the authority to make exceptions. He advised in fact in section 2 it says, "*the improvements shall be made in accordance with the plans, specifications, profiles, estimates and costs of the improvement*". Tabaka advised if someone could show him something that he was missing.

Lapehn advised he was certain the City Manager or the Service Director would have the responsibility to determine...

Tabaka advised he had a copy of the ordinance and if someone could point it out to him (where that authority is given/written). He advised he wasn't bringing this up because he wanted to see the church break out asphalt and install concrete. He advised he did not want to see that.

Robertson advised the Board of Equalization has been established and they have the authority to make changes.

Tabaka advised he didn't believe the church was going to go to the board of equalization and say, "Please make us put in a sidewalk".

Robertson advised someone could on their behalf say they should have an exception because it was already paved (area). He advised the board could agree that was acceptable at this time.

Tabaka advised he didn't understand and inquired that someone could go on their behalf.

Robertson advised if it was an issue to someone then Council could take it to the board.

Tabaka advised it didn't sound like it was an issue as they were not going to have to put in a sidewalk.

Robertson advised the board of equalization would be the one that would have the authority to make the exception, if they so choose.

Tabaka inquired if currently they (Calvary) were being mandated to put in that sidewalk.

Robertson advised he believed the parking lot was not included in phase I.

Hanlon advised in section 921.01 sidewalk construction; it states, "*It shall be the duty of the City Manager to supervise construction or repair of sidewalks*" He advised the City Manager has the authority. Hanlon advised if he (City Manager) deemed it as an existing sidewalk it was under his responsibility...

Tabaka advised that sounded to him like the City Manager has the authority to supervise and oversee and not to make an exception to an ordinance.

Hanlon continued reading, "*He (City Manager) shall cause specifications to be prepared for the construction of various kinds of pavements and transmit the specifications to Council for approval.*" He advised he would suggest (Tabaka) get a copy of that section in the ordinance book and look through it.

Tabaka advised from the portion already read (aloud) it didn't seem to him to give authority to make exceptions to an ordinance.

Hanlon advised it makes him (City Manager) for determining which sidewalks need replaced.

Tabaka advised frankly he didn't see that they have resolved anything here tonight and it sounded to him like they were making an exception without the authority to do it. He advised he would review that (section) and may communicate with them (Council) further. Tabaka advised the other thing he wanted to ask about was that in order to install a sidewalk on his property a fire hydrant was going to have to be moved and possibly two (hydrants) more on Sunset.

Boggs advised he is unaware of any hydrants needing moved on Sunset.

Tabaka advised he believed there were two (hydrants) that would need moved (on Sunset) and there were no curbs (on Sunset) and he wasn't sure how they were going to measure where the sidewalk was going to be located. He advised he didn't know how they would follow the ordinance unless they would move those sidewalks further onto someone's property, in which case they would probably have to grant an easement.

Boggs advised they could check into that (issue).

Tabaka inquired as to the cost to the city ie the taxpayers to move those hydrants.

Boggs indicated he didn't have that information available right at that moment.

Tabaka advised that surely they considered it. He advised when they (Council) were approving this plan surely they looked at all the costs such as moving a fire hydrant. Tabaka advised it didn't sound to him like a trivial task.

Hanlon advised as a contractor he has installed a hydrant on private property and the cost has been approximately \$1500.00 including the cost of the hydrant.

Tabaka inquired if it included digging all the way down to the main waterline and rerouting the waterline.

Hanlon advised it was digging up an existing hydrant and replacing it with new.

Tabaka inquired if that was putting a hydrant onto an existing standpipe.

Hanlon advised no it was digging all the way down to the main water valve and tying it in at the main waterline. He advised he didn't know how much it would cost to dig up an existing hydrant as they may find out it needs replaced.

Tabaka advised (for that cost) he would hire him (Hanlon) if he was going to work that cheaply. He indicated the job at his property was going to cost a lot more than \$1500.00. Tabaka inquired if the job would be subcontracted or would someone in the city be doing the work.

Boggs advised our utilities department would be doing the work.

Tabaka inquired as to how he could see an estimated cost of that job.

Boggs advised it would be dependent on how many hours it took.

Tabaka advised he wanted to close with a comment and a suggestion. He advised he and Council Member Russell have talked to a lot of people about this and they were not happy. Tabaka advised word was getting around to people not in the phase I area and they are not happy about this (program). He inquired if they couldn't do this; improve the infrastructure of the city, without alienating the public. Tabaka inquired if there wasn't a way to do it without this authoritarian approach and say we decided to do and you, you and you were going to pay. He advised it (the program) was very disproportionate as one of his neighbors was paying nothing at all and the neighbor next to him was being assessed for \$500 and he was going to have to pay \$3600. Tabaka advised Pamer on W. Sunset who certainly could not afford it was being assessed \$3400. He advised he predicts that 5, 8, 10 years from now the phase I area would be done and nowhere else in town done and all the terrible sidewalks all over town are still there. Tabaka advised he wasn't trying to be pessimistic or cynical, well maybe a little cynical, but he didn't see this (program) ever coming to full fruition. He inquired if they (Council) have ever considered another approach to this (sidewalk improvement program). Tabaka advised everyone uses sidewalks and it was easy enough to say the sidewalk in front of the homeowner's house was their responsibility, but in fact everyone uses those sidewalks. He advised the homeowner was probably the last one to use his sidewalk. Tabaka advised it was a public facility and was in the public interest. He inquired if they have ever considered trying to propose a temporary tax levy to the people of Rittman. Tabaka advised they could put a measure on the ballot and send letters out explaining why they were proposing the levy. He advised every homeowner has an investment in this town and he suggested Council advise them to protect their investment. Tabaka advised they would be asking for maybe \$50-\$60 a year for maybe 5 years. He advised if we have 4,000 properties then in one year they could raise \$200,000 and in 5 years 1 million dollars. Tabaka advised and at the end they would have gotten it done. He advised they would have gotten all the sidewalks repaired/replaced and everyone would be happy and no one person had a big financial hardship and best of all no one was sore at the Council. Tabaka advised if there was something wrong with that idea to please tell him. He advised he believed such a levy would pass because of the more than 80 people he polled they all responded favorably.

Robertson advised new taxes were a hard sell.

Tabaka advised he understood and if it (levy) failed then it would be the will of the people although he still believes it would pass. He advised he believed it (levy) could be posed to the property owners that they have a home here, they have an investment in the town and they should protect their investment. Tabaka advised they would then improve the sidewalks, improve the town and might even attract more people to town and maybe businesses might want to come here, it couldn't hurt.

### **Old Business**

**a. Res. No. 7651 A Resolution of the Council of the City of Rittman, Wayne and Medina Counties and State of Ohio, Directing the City Law Director on Behalf of Council to Petition the Board of County Commissioners of Wayne County, Ohio to Conform to the Corporate Limits of the City within Chippewa and Milton Townships to be Coextensive with the Corporate Limits of the City and to Create a New Township Known as Rittman Township. Third Reading.** Res. No. 7651 was read on third reading. Hanlon moved to adopt, all Yeas on roll call and **motion carried.**

**b. Ord. No. 7652 An Ordinance of the Council of the City of Rittman, Wayne and Medina Counties, Ohio Authorizing the Municipal Manager to Amend Sections 191.02(a), 191.04(a), 191.05(a), 191.05(c), 191.10(b)(2), 191.16 and 191.18(a) and to Establish Sections 191.02(i), 191.02(j), 191.02(k), 191.04(f), 191.05(f), 191.15(h)(i)(j)(k), 191.19 and 191.20 of the Codified Ordinances of the City of Rittman, Income Tax Pursuant to the Attached Exhibit. Third Reading.** Ord. No. 7652 was read on third reading.

Carey advised section 191.02 (i) concerning the net operating loss and in discussions with a number of the tax committee members and Council, he believed that a majority would like to see a three year loss carried forward for businesses and rental units. Carey advised there would be no carry back beginning fiscal year after January 1, 2012 to allow for this change to be budgeted in the system. Carey advised that was the proposal before the committee and the consensus from most of the people he received a response. Carey advised he would either like to amend that section or table this ordinance to give Mr. Bower time to write up the change, if it was the will of Council to do so.

Hanlon inquired as to how that compares to city taxes in other cities such as Wooster, Orrville, etcetera. Carey advised most of the other neighboring cities have this (language) included.

Boggs advised Orrville does not have loss carryover.

Carey advised they could only use it to offset loss from a rental unit or a business and could not be used to offset wages and once the three years were past it was gone.

Beaumont advised he agrees with Carey although he understood it may not be totally advantageous to the city right now, but he believed it was a fair approach to the businesses. He advised they could change it to make it startup businesses, but they didn't seem to have a real consensus as to that idea. Beaumont advised the way the economy was right now there could be some well established businesses that would qualify under this (change). He advised he felt it was a mixed bag so to speak, but it puts us (Rittman) in line with what other municipalities are doing making us competitive from a tax code standpoint.

Robertson advised he felt it was a complex enough change they ought to see it in writing.

Carey moved to table, all Yeas on roll call and **motion carried**.

**c. Ord. No. 7653 An Ordinance of the Council of the City of Rittman, Wayne and Medina Counties and State of Ohio, Amending and Repealing Section 1301 of the Codified Ordinances of the City of Rittman, Wayne County Building Code, to Replace Said Section with the Property Maintenance Code. Second Reading.** Ord. No. 7653 was read on second reading. Carey moved to place on third, all Yeas on roll call and **motion carried**.

#### **New Business**

**a. Res. No. 7655 A Resolution of the Council of the City of Rittman, Wayne and Medina Counties and State of Ohio, Amending Resolution No. 7645, the Sidewalk Improvement Project and Declaring an Emergency. First Reading.** Res. No. 7655 was read on first reading. Carey inquired as to the life of a sidewalk. Hanlon advised he believed between 30-50 years. Carey inquired if 5 years was long enough (for the payment to be collected). Robertson inquired if there was a limit as to how long it could be placed on the tax duplicate. Bower advised whatever Council set. Rissland advised it could not be longer than the useful life of the item. Hanlon advised the biggest problem with extending it was they were rolling the money back into the sidewalk program and they were completing the work in phases. Hanlon advised they didn't want to draw it out for 30 years. Beaumont moved to place on second, all Yeas on roll call and **motion carried**.

**b. Motion to Appoint Ken Park of DeCoursey Rd. to the Planning Commission**  
Carey so moved, all Yeas on roll call and **motion carried**.

**c. Motion to Accept the Resignation of Rick Hanlon from the Planning Commission as Steve Johnson was Already Serving in that Capacity.** Johnson advised if Hanlon wanted to serve on this commission he could resign. Hanlon advised Johnson had more expertise and he would rather someone with more expertise in that field serve than him learn the whole planning section from scratch. Johnson advised he was fine with the decision either way. Lapehn so moved, all Yeas on roll call and **motion carried**.

**d. Ord. No. 7656 An Ordinance of the Council of the City of Rittman, Wayne and Medina Counties, Ohio Determining that Lot Number 1038 Owned by the City of Rittman is No Longer Needed for Municipal Purposes and Authorizing the Municipal Manager to Solicit Bids for Its Sale as Required by Law. First Reading.** Ord. No. 7656 was read on first reading. Russell inquired as to how the property would be divided. Boggs advised the property would go to the highest bidder. Russell inquired if it was wide enough to build. Boggs advised it was wide enough to build, but there are utilities going through (the lot) so, the city would maintain an easement. Boggs indicated you couldn't build on it unless the utilities were rerouted. Beaumont inquired as to the process for selling (a lot owned by the city) and the cost. Boggs advised advertising costs he was estimating around \$300. Bower advised by statute they have to advertise the property for sale. Boggs advised he would like to place a minimum bid on the property to help cover costs. Carey moved to place on second, all Yeas on roll call and **motion carried**.

e. **Discussion of the Application for the Sale of Liquor at the Dollar General on North Main Street** No objections were known from abutting property owners and it is assumed they were notified by the state. Council took no action and did not wish to request a hearing.

f. **Motion to Appoint Steve Johnson to the Recreation Center Board as Council Representative – Richard Lapehn Respectfully Declines Due to His Schedule** Lapehn so moved, upon roll call; Hanlon-Yes, Beaumont-Yes, Russell-Yes, Carey-Yes, Lapehn-Yes, Johnson-Abstain and **motion carried.**

g. **Res. No. 7657 A Resolution of the Council of the City of Rittman, Wayne and Medina Counties, Ohio to Provide for Municipal Services for the Proposed Annexation by the Property Owner of Approximately .68 Acres in Chippewa Township, County of Wayne and State of Ohio and Declaring an Emergency. First Reading and Adoption.** Res. No. 7657 was read on first reading. Carey inquired if there was a water and sewer line relatively close to this property already. Boggs advised he believed it was within three hundred feet. Boggs advised the property owner was primarily interested in tapping into the sewer. Boggs advised he believed the sewer line currently ends just through the underpass going east. Boggs advised the portion inside the city limits is named Morningstar Drive and the portion in the township is Shondel Road. Lapehn moved to adopt, all Yeas on roll call and **motion carried.**

h. **Ord. No. 7658 An Ordinance of the Council of the City of Rittman, Wayne and Medina Counties and State of Ohio, Amending the Annual Appropriation Ordinance No. 7623, As Amended According to the Attached Sheet(s) and Declaring an Emergency. Three Readings.** Ordinance No. 7658 was read on first reading. Rissland advised they need this passed tonight due to the USDA portion. Carey moved to suspend the rules and have second and third reading, all Yeas on roll call and **motion carried.** Ord. No. 7658 was read on second and third reading. Carey moved to adopt, all Yeas on roll call and **motion carried.**

i. **Motion to Amend (Section 921.02) the Sidewalk Ordinance to Add the Requested Criteria for Sidewalk Repair as a Matter of Policy and Bring it to Council in Ordinance Form to Fit Rittman’s Code for Consideration at the Next Meeting** Hanlon so moved, all Yeas on roll call and **motion carried.**

#### **City Manager’s Remarks**

City Manager Larry Boggs inquired for clarification purposes if he was to not respond to the application.

Beaumont advised he didn’t believe that Council had to take any action. He advised they weren’t agreeing or disagreeing.

Boggs advised he believed since Council took no action they were not requesting a hearing. Bower concurred.

#### **Finance Director’s Remarks**

Finance Director Barbara Rissland advised she was continuing to work on the budget.

#### **a. Approval of Financial Report for July**

Carey so moved, all Yeas on roll call and **motion carried.**

#### **Council Remarks**

Council Member Glen Russell appreciated everyone for being here. He advised he believed (Tabaka) had some good points. Russell invited everyone to come back.

Council Member Richard Lapehn had no remarks.

Council Member Rick Hanlon had no remarks.

Council Member Darrell Carey commended Barbara (Rissland) on her letters from the auditor and advised it was a job well done.

Council Member Steve Johnson had no remarks.

Council Member Lynn Beaumont had no remarks.

a. **Approval of Vouchers 55529 & 55540 thru 55678 and Memo Expense #'s 110706 thru 110709 Including Then and Now Certificates** Questions were asked regarding #'s 55633 & 55670. Johnson so moved, upon roll call; Carey-Yes, Hanlon-Abstain, Russell-Yes, Beaumont-Yes, Lapehn-Yes, Johnson-Yes and **motion carried.**

#### **Adjourn: - 8:10 p.m.**

Hanlon so moved, all Yeas on roll call and **motion carried.**

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**Mayor**

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**Clerk of Council**