

# CITY OF ROCKY RIVER

**December 2, 2019**

The meeting of the Committee-of-the-Whole was called to order by Mr. Moran, President of Council, at 7:00 p.m. in the David J. Cook Council Chambers.

Council Members Present: Mr. Hunt, Mr. Shepherd, Mr. O'Donnell, Mr. Furry  
Mr. Sindelar, Mr. Klym, Mr. Moran

Administration: Mrs. Costello, Mr. Thomas

Law Director: Mr. Bemer

The meeting was opened with the Pledge of Allegiance.

## **MAYOR'S REPORT:**

Director Costello reported that during the week of November 25<sup>th</sup> the Service Department collected 91 tons of leaves even including a holiday. The Service Department's hard work is very much appreciated.

This evening at the Civic Center, the Cuyahoga Soil and Water Conservation District hosted a workshop entitled "Green Yards and Healthy Homes". The workshop was lead by Jaimie Johnson from the Cuyahoga Soil and Water Conservation District with the topic being alternatives for chemicals used in yards and homes that are inexpensive, all natural and effective. Special thanks to Commission Snyder who also attended this workshop.

Director Costello also announced the holiday events scheduled this week:

- Wednesday, December 4<sup>th</sup>, the Senior Center Holiday Party begins at 5:30 p.m. with Snowball Punch, Dinner at 6:00 p.m. followed by the Cleveland Bluegrass Orchestra at 7:30 p.m.
- Friday, December 6<sup>th</sup>, at 6:00 p.m. the All Aglow Tree Lighting and Holiday Celebration sponsored by the Early Childhood PTA will be held at City Hall Park and the Civic Center. New this year will be 22 Christmas Trees sponsored by the Chamber of Commerce. Food trucks, live music, holiday sing-a-long, crafts, cookies and Santa!
- Saturday, December 7<sup>th</sup>, the Downtown River Holiday Walk begins at 11 a.m. to 3 p.m.
- Sunday, December 8<sup>th</sup>, the Women's Club Holiday Home Tour – Tickets are available online or at Lake Road Market

**Finance Committee:** Mr. O'Donnell reminded Council about the Finance Committee Meeting that will be held this Friday beginning at 8:00 a.m. regarding Ordinance No. 94-19. The Public Hearing was held on November 25<sup>th</sup> and this ordinance was read for the second time at last week's Legislative Meeting. Council received the final agenda for Friday's meeting in their packets. Please be sure to meet with your Directors and forward your reports to Councilman O'Donnell.

**Planning, Zoning and Economic Development:** President Moran said that there will be a Development Code Meeting with the Planning Commission at 6:00 p.m. this Wednesday, December 4<sup>th</sup>. Law Director Bemer concurred that the city has a contract with Cuyahoga County Planning regarding a systematic review of the

Development Code. This will be the only item on the agenda. Mr. Moran said that Council passed an ordinance to allow the funding for this contract with the Cuyahoga County Planning Committee.

## **COMMUNICATION & ANNOUNCEMENTS: NONE**

### **UNFINISHED BUSINESS:**

**ORDINANCE NO. 83-19:** Mr. Sindelar said this ordinance authorizes the administration to purchase tires on the Open Market at the best prices for January 1, 2020 to December 31, 2020. This will be placed on the consent agenda.

**ORDINANCE NO. 84-19:** Mr. Sindelar said this ordinance authorizes the administration to purchase gasoline, fuel oil and allied products on the Open Market for January 1, 2020 to December 31, 2020. This will be placed on the consent agenda.

**RESOLUTION NO. 85-19:** This resolution will be read for a third time. This authorizes the administration to participate in the Ohio Department of Transportation Cooperative Purchasing Program for the years 2020 and 2021. This is a bi-annual resolution. There is no cost and it allows the city to utilize this combined buying power of the state to purchase items such as salt and vehicles. This will be placed on the consent agenda.

**ORDINANCE NO. 86-19:** Mr. O'Donnell stated this is a refund for money that was paid from the City of Cleveland to the City of Rocky River for the Purnell Watermain Replacement Project. \$59,664.22 will be transferred back to the City of Cleveland. This ordinance will be placed on the consent agenda.

**ORDINANCE NO. 87-19:** Mr. O'Donnell stated this is for the Watermain Replacement Project on Laurel. \$64,572.05 will be transferred back to the City of Cleveland. This ordinance will be placed on the consent agenda.

**AMENDED ORDINANCE NO. 88-19:** Mr. O'Donnell stated that this is an emergency ordinance establishing the positions and fixing the annual salaries of the city's employees. This is an annual ordinance that is passed every year. This will set up the wages for positions within the city. Mr. O'Donnell will seek passage of this ordinance at next week's Legislative meeting.

**ORDINANCE NO. 89-19:** This authorizes the city to enter contracts providing health coverage through Medical Mutual, prescription coverage and optional visual coverage for the full time employees and collective bargaining employees. Mr. Shepherd clarified that the overall increase is about 3.8% for the premium cost, which is tremendous in today's environment. This ordinance will be placed on the consent agenda.

**ORDINANCE NO. 90-19:** Mr. Moran said this amends the Building Code of the Codified Ordinances, Chapter 1321 entitled permits, inspections and license fees. Mr. Moran discussed this with Commissioner Reich and the cost changes are included in the exhibit. Mr. Klym has questions regarding sections of Miscellaneous Fees in Section 1321.02 and 1321.05. He feels these should be combined. Fire alarm systems have been moved, but possibly should be its own paragraph. In Chapter 1321.99 under penalty, the language used talks about tripling fees and Mr. Klym is asking if the language makes sense or should it be tightened up to be less vague. Mr. Bemer is currently looking at this but it may not be ready for a third read next week.

**ORDINANCE NO. 91-19:** This is amending the Business Regulation Codes adding permissions to the Building Commissioner as opposed to the Safety-Service Director. The Safety-Service Director was stricken and the Building Commissioner was added.

**ORDINANCE NO. 92-19:** This is amending the Development Code for specific section 1141.11, permits, failures to obtain certificates and orders. Fines will be tripled as in 90-19.

**ORDINANCE NO. 93-19:** This is amending the Development Code for specific section 1141.21 entitled abatements of violations. This adds the Zoning Administrator along with the Mayor to initiate an injunction.

Ordinance No. 90-19 through 93-19 will be read individually at next week's meeting to be sure Mr. Klym's questions have been addressed.

**ORDINANCE NO. 94-19:** Mr. O'Donnell stated that this is probably the single most important ordinance that is passed all year long. This is the Budget Ordinance for next year and it makes appropriations for the current expenses of the city for the fiscal year ending December 31, 2020. The Finance Committee Meeting will be held Friday, December 6<sup>th</sup> beginning at 8:00 a.m.

If a Director cannot make it to the meeting on the 6<sup>th</sup>, they can present their budget at next Monday's meeting.

**ORDINANCE NO. 95-19:** This is for the purchase of Ferric Chloride from PVS Technologies, Inc. at \$558.00 per dry ton. This is the product that has had some volatility over the last five years and has had a low of \$336 and a high of \$558. Two bids were received with PVS being the best and lowest bidder. Operationally, they are continuing to investigate ways to use their chemicals more efficiently and will see if there is a more appropriate chemical to use and also are trying to streamline the ferric dosing strategy for phosphoric reduction. This is slated for three full reads and also utilizes non-emergency language and is necessary to comply with the NPDES permit.

**RESOLUTION NO. 96-19:** Mr. Klym stated that this resolution will ratify the Mayor's or her Designee's submission of an application for a \$100,000 Coastal Management Assistance Grant to remove and reconstruct a bridge that is over Spencer Creek. The city will match 50% of the funds and absorb the remaining costs of the project. Director Costello stated that a cost estimate for the replacement from SmithGroup, JJR is about \$500,000, which will include the demolition, soil re-nourishment, stabilization and the restructuring that will include boardwalks that will connect the fishing pier. This will have the appropriate ADA compliant descent on either side. It will be more complex than what is there and it will be much nicer. This will have three full reads.

- Mr. Furry will look forward to clarification of the \$400,000 to complete this project. Director Costello said this pedestrian bridge will also help in sustaining the shore as well as the creek. It will improve the environment around what is being built.
- Mr. Moran asked if the pictures he has seen showing cement siding along the creek bed is part of this bridge building project. Director Costello stated that the stream restoration is another project in the Master Plan for the park where the creek will be restructured. This project will need approval from regulatory agencies: the EPA, Army Corps and ODNR along with the sub regulatory agencies within those agencies. This will have three full reads. Mr. Moran summarized that this is part of the long-term project but not part of this cost.

**ORDINANCE NO. 98-19:** Mr. Shepherd said that this authorizes the Mayor to enter into a two-year contract with Mackay Engineering. Mackay Engineering has served the city well and has a lot of institutional knowledge. Mr. Shepherd said the rates are reasonable with slight cost of living increases. This will be read for a second time next week. As Mr. O'Donnell stated last week there is a thirty-day termination provision if ever needed.

**RESOLUTION NO. 99-19:** Mr. Moran stated that this is being presented to support the placement of a proposed shore structure at 21508 Avalon. A submerged land lease plan is being made and will need approval from the ODNR. This will be read for a second time next week.

- Mr. Furry asked if neighbors will be notified about this project. Director Bemer said that neighbors will not receive notice regarding this resolution and Director Costello stated that if permits are pulled, neighbors will be notified.

**ORDINANCE NO. 100-19:** Mr. Shepherd stated that this is for the insurance needs of the Rocky River Municipal Court. This was bid in October, 2018 and the city has the option to renew. It is not a locked in price renewal so in effect it is like a new contract. The percentage for this insurance is up .1%.

**ORDINANCE NO. 101-19:** Mr. Shepherd said this is an annual ordinance for the WWTP Insurance. This was bid in October 2018 and the city has the option to renew. It is not a locked in price renewal so in effect it is like a new contract. The increase is at 9%. Director Costello explained that the WWTP renewal is at a \$92,000 not to exceed figure. The insurers anticipate charging the city \$84,991 but would like to keep the \$92,000 as a not to exceed figure because of the possibility of an issue developing at the plant requiring additional coverages (new, more expensive equipment being added in capital projects.) Across the board, Director Costello has been informed by the McGowan Insurance Company, that there have been increases in umbrella coverages. The WWTP has commercial/industrial use, big pumps and large machinery. The companies have tried to keep the costs as minimal as possible. Mr. Shepherd asked if the umbrella coverages for the WWTP are more substantial in nature than in the rest of the insurances. Director Costello said yes in that the machinery is more industrial in nature and very expensive. The city's umbrella coverages have not changed. The companies, Travelers, Liberty Mutual and US Specialty are all in good standing with good reputations.

**ORDINANCE NO. 102-19:** Mr. Shepherd said that this ordinance is for the general insurance needs of the City. This was bid in October 2018 and the city has the option to renew. It is not a locked in price renewal so in effect it is like a new contract. This has an increase of 1.4%.

- Mr. Moran stated that these firms have been used for a long time. Director Costello explained that the city prohibits "pool" insurance so the city is looking for very specific coverage, independent and meeting certain standards of coverages and to lock the city into one price would probably increase costs over the life of three years. Director Costello has had excellent experiences with Travelers.
- Director Costello stated that the city next year will look at the insurance bid spec book and have a third party review what the city is bidding and give possible alternatives to move insurances into more than one party. Mr. Klym would like to see this happen. There are consultants that will review the entire package and help the city to write the RFP for the bid specs for the insurance brokers. 2020 will be a good year to do this.

Mr. Shepherd stated that his recollection is that the city went with these agents for quite a few years and in 2018 did bid out but there was not a good response to the bids. Mr. Shepherd stated that these are called renewals, but they are really new contracts. The city does not have to go with these companies and agrees with Councilman Klym that getting a consultant would be good to do every so often.

#### **MISCELLANEOUS BUSINESS: NONE**

#### **NEW BUSINESS:**

**ORDINANCE NO. 97-19:** Mr. Hunt did not read this ordinance last week. As proposed, this ordinance would amend Section 331.38 regarding stopping for school buses while discharging children. The proposed ordinance would amend 331.38, subsection G making such offense a first-degree misdemeanor and double the fine from \$500 to \$1000. There is also a potential court imposed license suspension as part of the penalty in this section. Mr. Hunt reviewed some materials regarding proposed changes at the state level. The state legislature will be looking at potentially amending the mirror section 4511.75 changing the penalty from \$500 to \$1000 and change the Class 7 suspension to a Class 6 suspension, which would increase the potential license suspension to be

imposed by a court. There may be an escalation clause that would increase the penalties if an offender commits the same offense within 5 years to a lengthier license suspension. In the past, Council has asked that the city code mirrors the state code. Mr. Hunt is not sure if council makes this change or waits to see what the state does. Mr. Hunt also spoke with Mr. Bemer and he indicated that regarding Home Rule with traffic matters, Council could impose more stringent traffic codes. Shaker Heights and another community have been making regular traffic offenses first-degree misdemeanors. The only issue Mr. Hunt sees is opening up to substantial fines and license suspension and potential jail time from 0-180 days.

- Mr. O'Donnell is a little uncomfortable increasing the level of the misdemeanor. He is open to the increase of fines. He feels that Reckless Operation would come into play if something horrible happens.
- Mr. Furry agrees with what the changes are in principal and whether these changes will come through from the State.
- Mr. Hunt will look at the code regarding certain offenses and reckless operation.
- Mr. Klym is not sure if the penalties of reckless operation are as stringent either. He is very much at ease with the fine at \$1000 and thinks there should be an increase penalty on this and he is not opposed to putting the potential for jail time. The court should have that flexibility. He saw that the state is adding additional language to reckless operation and if it involved a school bus, the penalties will be increased.
- Mr. Bemer sent some of the case laws to Mr. Hunt. It is constitutional for a municipality to have a higher penalty for a traffic offense as long as it does not cross into the boundary of a felony. One of the cases from Cleveland Heights changed a reckless operation from a minor misdemeanor to a fourth degree misdemeanor and Shaker Heights changed speeding from a minor misdemeanor to a first-degree misdemeanor. They do not tolerate any type of driving infractions that possibly could harm the public. This goes back to a 1973 decision from the Supreme Court. If Council is interested, Mr. Bemer will send these case laws to Council.
- Mr. Moran asked if this has been brought up by the School Board. Have there been multiple infractions recently? Mr. Bemer has not had any contact from school personnel. Avon Lake was the first to change the infraction to a first-degree misdemeanor and a \$1000 fine along with Olmsted Falls and North Ridgeville.
- Mr. O'Donnell asked if Chief Stillman opined regarding this. Mr. Bemer said no he has not.
- Mr. Shepherd thinks that a reckless operation does carry a potential jail sentence. Mr. Shepherd does not like patchwork enforcement where one city has one set of laws and cross a boundary to a different set of laws. He would like to follow the state that may be making it tougher and putting a jail sentence with it. He does not have a problem if everyone wanted to do it, however.
- Mr. Hunt stated that as much as the potential for jail time is significant, the license suspension up to a year is as big of a hammer as jail time. This will be discussed further at next week's meeting.

Mr. Moran thanked Director Costello for the update of events in the City this week. As there was no further business by members of Council, the meeting was adjourned at 7:50 p.m.

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James W. Moran  
President of Council

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Susan G. Pease  
Clerk of Council