

Council met in a **PUBLIC HEARING**. The President of Council called the meeting to order at 5:30 p.m.

Member(s) Present: **Mr. August A. Pugliese** (Ward 2)
Mr. Richard F. Balog (Ward 1)
Mrs. Ann I. Stranman (Ward 3)
Mr. James M. Trisket (Ward 5)
Mr. Christopher J. McClure (Vice President)
Mr. J. P. Ducro IV (Council President)

Member(s) Absent: **Mrs. Julie A. Lattimer** (Ward 4)

Officer(s) Present: **City Manager James M. Timonere, City Solicitor Michael Franklin
City Auditor Dana D. Pinkert, Clerk of Council LaVette E. Hennigan**

Officer(s) Absent: **None**

SUNSHINE LAW: The Clerk of Council certified the requirements of the Sunshine Law have been met.

PURPOSE: The Council President announced the purpose of this Public Hearing was to hear comments regarding the following requests for street vacations:

1. A request to vacate a 20 foot wide alley located between Walnut Boulevard & West 3rd Street, west of Lake Avenue (**Ordinance No. 2012-158 - attached**);
2. A request to vacate a 20 foot wide alley running through Washington School block between Michigan and Lake Avenues & West 10th and West 9th Streets (**Ordinance No. 2012-159 – attached**); and
3. A request to vacate 10 foot wide alley located on the west side of Water Street between PP #68-410-00-031-00 & 68-410-00-028-00 (westward off Morton Drive). (**Ordinance No. 2012-160 – attached**)

WELCOME: The President welcomed visitors.

DISCUSSION

1. **A request to vacate a 20 foot wide alley located between Walnut Boulevard & West 3rd Street, west of Lake Avenue (Ordinance No. 2012-158 - attached).**

Purpose of Request

Mr. Stu Cordell, 4419 Shore Drive, Ashtabula, OH 44004: reported he is a managing member of Harbor Anchor Properties Ltd. which acquired title to the former Harbor High School property.

“Upon having the property surveyed we learned the alley extended into the boundaries of the property approximately 67 feet on leg and 59 feet on the other – it’s about 20 feet wide. Because the alley dead ends inside our property we have no use for the alley and would like to have that portion of the alley vacated so that our west boundary line becomes a straight line instead of having a carve out in the middle of it. The rest of the alley was vacated 80 years ago by Council because it came off of Walnut Boulevard, connected with the alley, and then extended through to 3rd Street. It was vacated so Faucet Gymnasium could be built, and now only the gymnasium remains. We would like to square off the boundaries then look to develop the property in the future. “

Questions/Comments from Council & Administration

The President reported that the Ashtabula City Planning Commission discussed the request. He reported receiving several questions and concerns pertaining to the snow maintenance of and emergency services access to the properties.

The Manager said, “I doubt emergency vehicles are using the alley at the present time because of the size of the alley verses the size of the fire trucks. They would access the properties from Walnut Boulevard or West 3rd Street. Regarding snow plowing, if there is a fence there, we have several alleys and streets that have dead ends and either the snow will be pushed back or the plow will back in and have to pull the snow out. I do not see an issue with snow plowing.”

The President said depending on the type of fence that would be erected he would not want the fence to be damaged due to snow plowing; and suggested when planning the installation of the fence snowplowing is taken into consideration to lessen the possibility of this happening. He said he would assume Public Works would ensure there would be no snow pile up that would block access to garages or residences.

The Ward 2 Councilor reported receiving a few calls concerning the potential problem with snowplowing. He said the City will do what needs to be done; and if there is a problem the City will work with residents. He asked Mr. Cordell if his organization would work with the City in solving the problem if one arises. Mr. Cordell replied, “Of course”.

Questions/Comments from Visitors

Ms. Florence Simmon, Walnut Boulevard (north side): The first five or six houses from Lake Avenue are generally rental properties. Some of the tenants park in the back, but for the most part residents park on Walnut Boulevard. She does not believe tenants are aware of the ordinance prohibiting parking on City streets when snow reaches 3 inches high. Her concern is if residents who are made aware of the parking snow ban, by way of receiving a notice, try to park in the alley but are prohibited from exiting the alley due to a large snowfall and no immediate removal of snow from the alleys. She also hopes the City will enforce the 3 inch snow parking ban because there are many who violate the rule by parking on Walnut Boulevard.

The Manager said if residents are currently parking in the alley, “none of that should change for them”. As far as the plowing goes, when they do get to the alleys they would just have to pull the snow back out to West 3rd Street and then place it along West 3rd Street.

The Ward 5 Councilor commented that in looking at the shape of Track 21, 18 17 16 and 15, they appear to be a part of the land. The Manager said the hash mark line between 19 and 20, and then 95 and 94 (that little square that kind of has another end to it, where it says L1, L3, L4, L7, L6, and L5), that's the only part being vacated. The Councilor said in relationship to Ms. Simmon's concern, if track 20 and 18 and everything to the northeast does not have houses on it then I'm not sure I understand why there would be cars there. The President reported Track 15, 16, 17 and 18 which are circled; and then 19, 20, 21, and 22 – that is all a part of Mr. Cordell's group's property which is currently vacant. The President said, "What I believe Ms. Simmon is saying is that although cars may or may not utilize that portion of the alley that is being vacated, her concern is their ability to get out of that end of the alley – because currently they cut across 95 and 94 into the Harbor parking lot and go out on to West 3rd Street – they just drive through the parking lot. Mr. Cordell's position is that they plan to secure that property line with a fence, regardless, so whether or not this alley is vacated there will be no access out across any of that property from the alley, unless they go back west on the alley. So, his request is to vacate that little portion there that is boxed in to prevent a – probably unsightly and complicated, and much more expensive fence that would box in that alley area as opposed to just going straight across. And, Ms. Simmon's concern is that from a snowplowing standpoint, I suppose, if the snowplows plowed down that road, her belief is that they could plow snow into that box and it is not going to hinder or be a problem at all. And, she's just not certain the City is going to modify the way they plow to get the snow out of the alley without having a build up at the end where that fence would be if the vacation took place." The President said if Council votes in favor of the vacation, it would be incumbent upon the City to make sure it does not impact citizen's use of the alley access due to snow. Ms. Simmon said the property that has been requested to be vacated has been used by residents for 60 years. The President replied, "While this might be true, it does not give residents the right to continue to infringe upon private property".

2. A request to vacate a 20 foot wide alley running through Washington School block between Michigan and Lake Avenues & West 10th and West 9th Streets (Ordinance No. 2012-159 – attached).

Purpose of Request

Mr. Ron Kister, 1444 Morton Drive: NEO Development owns the property, which was acquired from the Ashtabula Area City Schools Board. There is an alleyway running north and south right in the middle of the property. The school building was located over the alley for years, which did not affect anything. Technically the alley, which has no purpose, needs to be vacated in order to use the property. NEO is the only affected party because they own the whole block running north and south between West 9th and 10th Streets.

Questions/Comments from Council & Administration – None
Questions/Comments from Visitors – None

The President said he believes the request to be logical; that he is very familiar with the property; and that clearly a road which has never been built, running right through the property does not seem to have any use neither needs to continue to exist on the books.

3. **A request to vacate 10 foot wide alley located on the west side of Water Street between PP #68-410-00-031-00 & 68-410-00-028-00 (westward off Morton Drive). (Ordinance No. 2012-160 – attached)**

Purpose of Request

Mr. Stu Cordell, 4419 Shore Drive, General Partner Allcor Investments: “Regarding the Water Street property – there’s a 10 foot alleyway running in a westerly direction off of Water Street, behind the stores known as the Harbor Perk, Carlisle’s and DeFinas. The alley extends behind the first two stores and dead ends behind DeFinas (he owns two lots there); the store is built on one, the other is vacant. It extends 10 feet wide and roughly 80 feet back into those properties. We’re requesting the vacation. Our proposal is that since Allcor Investments owns not only the two parcels of land to the south, but also another parcel of land to the north, and Water Street Warehouse owns the other property on the north side of the alley, and all three entities have agreed that if the alley were to be vacated we would instead dedicate an easement across that same footprint, but an additional 6 feet wide – so it would be a 16 foot easement that would allow for access to the rear portions of the stores, better access for safety vehicles and others to get to the rear portions of those buildings. We will dedicate that easement in perpetuity so that the property owners in the area can use it for access and the City can use it for any emergency that it might have. As a 10 foot alley it is not in very much use at the moment.”

Questions/Comments from Council & Administration

The Vice President asked if the maintenance of the alleyway would be that of the property owners if the vacation is granted. Mr. Cordell replied, yes.

The President asked for the procedure to obtain an easement. Mr. Cordell replied, “The owners would register the easement with the County for the mutual benefit of those properties. The easement would be among the property owners; the City is not a party to it.” The Solicitor said, “An easement is a binding agreement between the owners of the adjoining properties indicating that they and their business invitees, etc., will have the use of the area they describe. The difference between that and a public street is that if it were a public street and I wanted to use it I would not necessarily need to be an invitee – I might not have any business at those stores, I could simply walk up and down the street. Under certain circumstances the easement owners could say if you have no lawful business here we’re going to exclude you from this area. I’m not saying that would happen, but the public at large just can’t use the property for the sake of using it; they must be invitees or otherwise associated with the business of the adjoining properties.”

The President asked Mr. Cordell if the City’s Architectural & Restoration Review Board has to comment prior to Council’s consideration of the request. Mr. Cordell said his understanding of their responsibility is that their purview covers the façade architecture – requiring that the building conform to the period architecture, but not with respect to a public street. The Solicitor concurred.

Questions/Comments from Council & Administration – None

Questions/Comments from Visitors

Ashtabula City Council Public Hearing
Monday, October 15, 2012

Mr. Ron Kister, Chairman, Ashtabula City Port Authority (PA): The PA, at one time, owned some of the property, however sold it to Mr. Cordell's group. He said it is a good thing to vacate the alleyway for then the City will no longer be responsible for it. It's in everyone's best interest in the area and they have all agreed upon it. The Harbor merchants are doing some good things and "we need to help them out".

The President thanked everyone for their participation. He announced, that by law, Council is unable to take formal action at a public hearing, but that ordinances pertaining to the three vacate requests are scheduled to be voted on at this evening's Regular Council meeting.

Adjourn

Mr. Pugliese moved, Mrs. Stranman seconded to adjourn the public hearing at 5:57 p.m.; motion CARRIED.

DATE APPROVED: November 5, 2012

ATTESTED BY: _____
J. P. Ducro IV
President of Council

ATTESTED BY: _____
LaVette E. Hennigan, MMC
Clerk of Council