

**ASHTABULA CITY COUNCIL MEETING MINUTES
CITY OF ASHTABULA
4717 Main Avenue, Ashtabula, OH 44004**

Regular Meeting

Monday, November 7, 2016

Council met in a **REGULAR MEETING**. The President of Council called the meeting to order at 7:00 p.m.

The Reverend Christopher McCain of Second Congregational Church offered the opening prayer and the Pledge of Allegiance was recited.

A moment of silence was observed for the passing away of Mrs. Rita Jean Balog, mother of former Ward 1 Councilor and former Ashtabula City Fire Chief, Rick Balog. Mrs. Balog earned her Masters of Library Science in 1980 from Kent State, was the Harbor Topky children's librarian from 1975-1980, Thomas Jefferson Elementary School volunteer librarian, and was a member of the Ashtabula City Architectural Restoration Review Board from 1975-1995. In addition, the President asked that we also keep Rick in our thoughts and prayers because his granddaughter was rushed to the hospital shortly after he received word that his mother passed.

MEMBERS PRESENT:	Mrs. Alice T. Cook	(Ward 3 Councilor)
	Mr. Kris E. Hamrick	(Ward 5 Councilor)
	Mr. John S. Roskovics	(Ward 1 Councilor)
	Mr. August A. Pugliese	(Ward 2 Councilor)
	Mrs. Josephine Misener	(Ward 4 Councilor)
	Mr. Christopher J. McClure	(Vice President)
	Mr. J. P. Ducro IV	(President)

MEMBER(S) ABSENT: None

OFFICER(S) PRESENT:	Mr. James M. Timonere	(City Manager)
	Mr. Michael Franklin	(City Solicitor)
	Mrs. Dana D. Pinkert	(Finance Director)
	Mrs. LaVette E. Hennigan, MMC	(Clerk of Council)

OFFICER(S) ABSENT: None

EXCUSED ABSENCE(S): None

SUNSHINE LAW: The Clerk of Council certified conformity to the Sunshine Law.

PRESENTATION(S): None

EXECUTIVE SESSION: None

CONSENT AGENDA

The Consent Agenda is a means whereby Council is able to efficiently conduct business by grouping routine items for consideration by one motion, one second and one vote.

MEETING MINUTES READING & DISPOSAL

None

LEGISLATION AGENDA

None

REGULAR BUSINESS

MEETING MINUTES READING & DISPOSAL

The Clerk of Council presented the October 17, 2016 Regular Meeting Minutes for Council's disposal. Mr. Pugliese moved, Mrs. Cook seconded to waive the reading of the minutes; motion CARRIED. Hearing no corrections, the minutes were approved as presented.

CITY MANAGER'S REPORT

- **Ohio Department of Transportation (ODOT) Bridge Inspection Services**

The City Manager requested an ordinance to enter into a consent agreement with the Ohio Department of Transportation for the purpose of providing bridge inspection services for the City of Ashtabula. Mr. Pugliese moved, Mrs. Cook seconded to grant the City Manager's request; motion CARRIED.

- **Delta Railroad Construction Inc. – Public Works Loader Repair**

The City Manager requested an ordinance to enter into an agreement with Delta Railroad Construction of 2648 West Prospect Road, Ashtabula, OH 44004 for the purpose of providing materials and services for the transmission repair of the 2001 Loader for the Public Works Department in the amount not to exceed \$18,000.00. Funds for this expenditure will be taken from the Permanent Improvement Fund. Mr. Pugliese moved, Mrs. Cook seconded to grant the City Manager's request; motion CARRIED.

- **Southeastern Equipment Company, Inc. – Public Works New Loader**

The City Manager requested an ordinance to enter an agreement with Southeastern Equipment Inc. of 8757 Tyler Blvd., Mentor, OH 44060 through the State Purchasing Program for the purchase of one 2016 Case 521F Articulated Wheel Loader in the amount not to exceed \$106,818.80. Funds for this expenditure will be taken from the Permanent Improvement Fund. Mr. Pugliese moved, Mrs. Cook seconded to grant the City Manager's request; motion CARRIED.

- **2017 Public Defender Contract**

The City Manager requested an ordinance to enter an agreement with the Ashtabula County Public Defender, Inc. of 4817 State Road, Suite 202, Ashtabula, OH 44004 for the purpose of providing

indigent legal services in the amount not to exceed \$23,000 for a one year period to commence on January 1, 2017 and end on December 31, 2017. Funds for this expenditure will be taken from the General Fund. Mr. Pugliese moved, Mrs. Cook seconded to grant the City Manager's request; motion CARRIED.

West 3rd Street Parking

The City Manager requested an ordinance to institute no parking on the north side of West 3rd Street from Franklin Avenue to Hulbert Avenue. Mr. Pugliese moved, Mrs. Cook seconded to grant the City Manager's request; motion CARRIED.

Garbage Pickup

The City Manager announced the regular trash pick-up schedule will not be interrupted even though Friday, November 11, is the Veteran's Day holiday.

First Energy Solutions (FES) Contract with NOPEC - Terminated

The City Manager announced many have probably already received notification from First Energy Solutions or NOPEC (Northeast Ohio Public Energy Consortium) regarding FES's decision to terminate their contract with NOPEC to be their electric discount supplier. The City of Ashtabula is a NOPEC community – meaning that “you do receive a discount off of your electric bills if you haven't opted out of the NOPEC program and chosen your own aggregate supplier, to this point. This will not affect your electric service. Your electric won't be shut off. There will be no disruption between that. But, come January, and as it nears, you should receive an 'opt out card' from NOPEC. If you do not fill out that opt out card or you do not shop for your own supplier for energy (and this also goes for gas) you will be automatically enrolled in NOPEC service. It is still a discount.” The City Manager strongly encouraged residents to conduct an apples-to-apples rate comparison on FirstEnergy, Dominion East Ohio Gas, or NOPEC websites to see if NOPEC is still the best deal. He cautioned that attention is paid to the fine print of the advertisements, or the literature being distributed by face-to-face marketers because there are “variable rates”, “fix rates”, and “terms to the rates”. If you are satisfied with NOPEC's rate and do not want to make a change, do nothing and you will automatically be switched to whomever the NOPEC supplier will become. You have 21 days, from the date the notice is received, to return it. There is a FAQ (frequently asked questions) area on NOPEC's website. The Manager said NOPEC is actively negotiating the rates on their communities' behalf. They are also able to be reached by telephone to speak with them about this issue.

Questions/Comments for City Manager

- **Bridge Inspections**

The President said he appreciated ODOT providing bridge inspections at no cost to the City. He asked if they are responsible for the inspection of the West 32nd Street & Lake Avenue bridge. The Manager said, no because it is not owned by the City, but rather the railroad. He said while the railroad has not conducted a full inspection of the bridge, they have provided a report on their feelings “behind it”. Since then the railroad has made some repairs to the bridge, such as concrete work, painting, and façade repair. The President said, cosmetically, it is much improved and would like to make sure it is structurally sound.

The Ward 2 Councilor asked when the railroad bridges were last inspected, such as the one on Center Street. The Manager said he is not given railroad bridge inspection reports, but believes there is a State of Ohio regulation that says they must be inspected every year, which is why we have to inspect ours every year. The Councilor said he believes “years ago” the City used to get the reports, and that we should have a copy them. The Manager will see if we have access to them.

The Ward 4 Councilor reported the Center Street railroad overpass is “deplorable”. She suggested asking the railroad what their plans are for it. The Manager said one lane of this railroad is owned by Norfolk/Southern (N/S); the other lane by CSX, but he believes N/S “has the whole jurisdiction on that bridge”. The Manager said the railroad was contacted because the concrete is crumbling. They are telling us the City is responsible for the concrete work; that there is no maintenance agreement in place for that part of it; to which he responded by asking them to show him the agreement that allows their bridge to be on our concrete – which he said they are unable to produce. He said they can either remove the bridge from our concrete or figure out a way to get the bridge repaired.

The Vice President asked if the railroad line is still in use. The Manager said the CSX line is.

CITY SOLICITOR’S REPORT

- No Report

FINANCE DIRECTOR’S REPORT

- **Drive-through Air Vacuum**

The Finance Director reported the drive-through air vacuum is broke, is wrapped for safety purposes, and that two repair quotes are due to be received. She reported the “replacement” came in at \$8,300.

- **Legislation Request**

The Finance Director formally requested RESOLUTION NO. 2016-143 A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR. Mr. Pugliese moved, Mrs. Cook seconded to grant the Finance Director’s request; motion CARRIED. The Finance Director reported that in 2017, the City will received \$17,000 less in real estate tax revenue and \$20,000 more in local government funds.

- **2017 Budget**

The Ward 2 Councilor asked when the budget will be submitted to Council. The Manager said he and the Finance Director have been going over it, are still off, but plan to submit it this week. The President said it will be reviewed at the Friday, November 18, 8:00 a.m., Finance & Personnel Committee meeting.

CITY COUNCIL COMMITTEE REPORTS and COMMUNICATIONS
(Chair/Vice Chair)

COMMUNITY DEVELOPMENT/ECONOMIC DEVELOPMENT/PARKS & RECREATION (CD/ED/P&R)
(Mrs. Misener/Mr. Roskovics)

The Chair announced:

- The committee will not meet in November.
- The committee will meet on Tuesday, December 13, at 4:00 p.m., to review outstanding agenda items and organize their 2017 agenda.
- Tomorrow the City electorate will vote on the Parks & Recreation Levy. The Chair thanked the Parks & Recreation Committee for their persistent dedication and hard work.
- The Ashtabula Downtown Development's Holiday Parade and activities are scheduled for Friday, November 18, beginning at:
 - 6:00 p.m. in Cornelius Park with family fun activities and the tree lighting contest.
 - Merchant holiday window contest judging will take place right before the parade begins at 7:00 p.m. Prizes will be awarded to: 1st Place \$250, 2nd Place \$150 and 3rd Place Gift Basket.
 - Mrs. Claus will greet visitors to Main Street Pizza from 5:30 p.m. to 6:45 p.m.

FINANCE & PERSONNEL (F&P) - (Mr. Ducro IV/Mr. Pugliese)

The Chair announced:

- The October committee meeting was cancelled.
- The November committee meeting is rescheduled from the 11th, which is Veteran's Day, to Friday, the 18th, at 8:00 a.m. The 2017 City budget will be the topic of discussion.

PUBLIC WORKS/PUBLIC UTILITIES/CABLE/SCHOOLS (PW/PU/C/S) - (Mr. Pugliese/Mr. McClure)

The Chair announced:

- The committee will not meet in November or December.
- The next meeting will be Friday, January 6, 2017, at 8:00 a.m.

SAFETY FORCES (SF) - (Mr. Hamrick/Mrs. Misener)

The Chair announced:

- The committee will not meet in November or December.
- The next meeting will be Monday, January 23, 2017, at 8:00 a.m.

LEGISLATION AGENDA

- **Formal Legislation Request(s)**

None

- **Brief Review**

The President provided.

- **Public Discussion**

Ms. Jennifer Farley: Asked why citizens do not have the opportunity to vote on whether to permit the sale of medical marijuana in the City of Ashtabula. She suggested Council “walk the neighborhoods” to find out how the community feels about the topic. She asked why should residents have to go outside the City to get their medication – and quoted the City’s Mission Statement: “OUR MISSION IS TO PROVIDE SERVICES AND PARTNER WITH OUR CITIZENS, BUSINESSES AND NEIGHBORS TO ENHANCE THE QUALITY OF LIFE FOR ALL WHO LIVE IN AND VISIT ASHTABULA.” She said those who are using illegal drugs chose their addition; those who use medical marijuana did not. She voiced her approval for permitting medical marijuana to be sold in the City and said it is no longer a “gateway” drug, and made mention of the City Solicitor’s opinion that it is.

Kevin: Voiced his approval for permitting recreational and medical marijuana to be sold and grown in the City. He said there are gray areas and asked City officials to keep an open mind.

The Ward 2 Councilor and Vice President voiced their opposition to permitting medical marijuana to be dispensed, processed or cultivated in the City. They cited our community’s current drug problems, the possibility of fly-by-night operations popping – ones that will make it easy for the drug to be sold illegally, the problem employers are having with filling jobs because they are having difficulty finding prospects that can pass drug screens, and the problems the state of Colorado is having since they legalized the drug.

The Ward 1 Councilor asked his colleagues to keep in mind it is “medical marijuana” that will be regulated by the state of Ohio, prescribed by a physician, and monitored by the State and the medical community. He said, “I think we’re doing a disservice to the organs if we paint it as something larger than it actually is.”

The Vice President asked how many dispensaries will be permitted. The City Manager said 18 “grower” permits will be issued at a cost of \$200,000 each. The Ward 5 Councilor confirmed 18 to be correct permits that will e issued. He said he read there will be 36 dispensaries throughout Ohio’s 88 counties.

The Ward 1 Councilor said he realizes some counties are saying no, but this Council needs to remain focused on the issue, and that he feels uncomfortable making a “medical” decision.

The Manager said recreational marijuana was included when this issue was first presented through State Issue 3. However, in 2015 it was on the County ballot and lost by 5802 votes, which represented 60.59% of the voters being against it, 39.41% in favor of it, but that the majority of the City voted no, with some precincts narrowly voting in favor of it. He also said it would be a workforce development issue for the City of Ashtabula because it is federally illegal to consume the drug.

The President said at the October 17 Regular Council meeting, Council did vote on a motion to have legislation drafted that would only permit the dispensing of medical marijuana in Ashtabula City limits, but prohibit its processing and cultivation. The vote was a tie vote (3 to 30; therefore failed.

The Vice President said if the legislation is enacted when presented for its second reading, it may be revisited when or if necessary.

The Clerk of Council said she was responsible for presenting the topic to City Council. She said several municipal clerks issued requests asking if communities had enacted legislation prohibiting medical marijuana, and if so, to share it. The Clerk said she received copies of some of the enacted legislation, asked the President if he wanted to present them to Council, he said yes, at which time she sent all the copies to City Council and the City Solicitor. The Solicitor told Council he chose the one that best suited our community and drafted proposed legislation. At the October 17 Pre-Council and Regular Council meetings the City Council, City Manager and City Solicitor discussed the draft. A motion, formerly requesting the legislation, was made and passed, which included having the legislation read twice to give the public the opportunity to comment before Council took the final vote. The Clerk said at the October 17, Regular Council meeting, the Solicitor spoke strongly about his desire that medical marijuana not be allowed in our community because he believes it is a "gateway" drug and because of the real drug problem we have in our small community. He also said the draft is just the beginning; that the legislation may be amended if need be, but that a community does not want to be caught off guard once the state gives the go ahead and puts all the regulations in place to move forward with the actual process of dispensing, processing and cultivating medical marijuana. If caught off guard a community would then have to scramble to get their legislation in place if they desire to enact limits or zoning requirements, before being approach by those who have been permitted by the state to dispense, process or Cultivate medical marijuana. The Clerk said she also placed the proposed legislation, in its entirety, in the October 17, meeting minutes so the public could see what was actually being proposed. The Clerk said it is her responsibility to keep Council informed; however it is their decision to act.

- **Consent Agenda Format**

Mr. Pugliese moved, Mrs. Cook seconded to dispose of the Regular Legislation Agenda in consent agenda format, with the exception of Ordinance No. 2016-145, which pertains to medical marijuana; motion CARRIED.

- **Legislation Reading**

The Clerk of Council presented the following legislation for Council's consideration:

1st Reading

ORDINANCE

2016-145 AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE CHAPTER 729, ENTITLED MEDICAL MARIJUANA REGULATION. (City Council)

Mr. Pugliese moved, Mrs. Misener seconded to waive the reading of the legislation; motion CARRIED. The Clerk announced the ordinance was placed on its first reading.

(NOTE: For the record, the ordinance, in its entirety, reads as follows:

**AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE CHAPTER 729,
ENTITLED MEDICAL MARIJUANA REGULATION**

WHEREAS, House Bill 523, enacting Chapter 3796 of the Revised Code of Ohio, which provides for the legalization and regulation of medical marijuana within the State of Ohio, became effective on September 8, 2016; and

WHEREAS, Chapter 3796 as passed allows the Department of Commerce to award licenses to medical marijuana cultivators, processors, and testing laboratories, and allows the State Board of Pharmacy to award licenses to medical marijuana dispensaries; and

WHEREAS, Section 3796.29 specifically provides that Ohio municipal corporations may adopt ordinances prohibiting or limiting the number of medical marijuana cultivators, processors, and dispensaries within the limits of the municipal corporation; and

WHEREAS, the Ashtabula City Council takes legislative notice that the use, possession, cultivation, distribution, and sale of marijuana, whether for medical or recreational use, remains illegal under the Controlled Substances Act, codified at 21 U.S.C. Section 841, and that federal courts have recognized that the federal government may enforce the Controlled Substances Act notwithstanding contrary laws of any State; and

WHEREAS, in light of the continuing conflict between state and federal law, the City of Ashtabula must resolve for itself whether, as a land use matter, medical marijuana cultivators, dispensaries, and processors, as defined by House Bill 523, should be permitted, regulated, or prohibited; and

WHEREAS, in the opinion of many experts marijuana is a significant "gateway drug" that can and does lead to dependence on it and more dangerous drugs, to the detriment of the health, safety and welfare both of the user and the community as a whole; and,

WHEREAS, the Ashtabula City Council accordingly finds and declares that it is prudent and necessary to exercise local control over the location of medical marijuana distribution, cultivation and processing activities in order to protect the public health, safety, and welfare;

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Ashtabula, County of Ashtabula, and State of Ohio that:

SECTION 1. That Chapter 729 of the Codified Ordinances of the City of Ashtabula, entitled "Medical Marijuana Regulation," shall be and the same is hereby enacted, and as enacted shall read as follows:

SEE TEXT ATTACHED AS EXHIBIT A

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the requirements of Section 10 of the Municipal Charter of the City of Ashtabula, Ohio, and of Section 121.22 of the Revised Code of Ohio.

SECTION 3. For the reasons stated in the preamble, this ordinance, if approved by the votes of five (5) or more members of Council, shall take effect immediately, otherwise 30 days thereafter.

PASSED: _____

J.P. Ducro IV
President of Council

Vote:

	Yea	Nay
Ducro:	___	___
McClure:	___	___
Roskovics:	___	___
Pugliese:	___	___
Cook:	___	___
Misener:	___	___
Hamrick:	___	___

ATTEST: _____

LaVette E. Hennigan
Clerk of Council

APPROVED: _____

James M. Timonere
City Manager

Approved as to form and correctness this _____ day of _____, 2016.

Michael Franklin, City Solicitor

EXHIBIT A

CHAPTER 729

MEDICAL MARIJUANA REGULATION

729.01 Definitions

729.02 Prohibitions

729.03 Research permitted

729.99 Penalty

729.01 Definitions.

(a) For purposes of this Chapter, "marijuana" means "marihuana" as defined in Section 3719.01 of the Revised Code.

(b) "Medical marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed or used for a medical purpose.

729.02 Prohibitions.

(a) No person or entity owning, renting or leasing real property located within the corporate limits of the City of Ashtabula, Ohio, shall develop, construct, reconstruct, remodel, adapt or use, or permit the use of, said real property for any of the following:

- (1) as a medical marijuana dispensary;
- (2) for the processing of medical marijuana;
- (3) for the indoor or outdoor cultivation of medical marijuana.

(b) No person or entity shall enter upon or occupy any public property, street, or right-of-way for any of the uses enumerated in Section 729.02(a).

729.03 Research permitted

(a) Nothing in this Chapter shall be deemed to prohibit or limit research related to marijuana conducted at a state university, academic medical center, or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

729.99 Penalty

(a) Whoever knowingly violates Section 729.02(a) is guilty of a misdemeanor and shall be fined not less than \$250 or more than \$1,000 for each offense. Each day of violation shall be deemed to be a separate offense.

(b) Whoever knowingly violates Section 729.02(b) is guilty of a misdemeanor of the first degree.

CROSS REFERENCES

Medical Marijuana Control Program - see Ohio R.C. Ch. 3796

One Reading

ORDINANCE

2016-141 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO CHANGE ORDER NO. 1 TO A CONTRACT WITH TALLMADGE ROOFING & HAULING, LLC, FOR AN ADDITIONAL \$1,600 FOR THE PURPOSE OF PAYING FOR ADDITIONAL MATERIALS REQUIRED FOR THE FIRE DEPARTMENT BUILDING ROOF REPLACEMENT. (City Manager)

ORDINANCE

2016-142 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR BRIDGE INSPECTION SERVICES WITHIN THE CITY OF ASHTABULA. (City Manager)

RESOLUTION

2016-143 A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR. (Finance Director)

ORDINANCE

2016-144 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO CHANGE ORDER NO. 3 TO A CONTRACT WITH A.P. O'HORO FOR ADDITIONAL \$35,000 FOR THE PURPOSE OF PAYING FOR ADDITIONAL MATERIAL AND HEIGHT FOR THE ACCESS RETAINING WALL ON THE WPC PRIMARY SETTLING TANK REHAB PROJECT. (City Manager)

ORDINANCE

2016-146 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH DELTA RAILROAD CONSTRUCTION, INC. IN AN AMOUNT NOT TO EXCEED \$18,000 FOR THE PURPOSE OF PROVIDING SERVICES AND MATERIALS FOR SERVICING A 2001 LOADER TRANSMISSION. (City Manager)

ORDINANCE

2016-147 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO PURCHASE A 2016 CASE LOADER FROM SOUTHEASTERN EQUIPMENT COMPANY, INC., IN AN AMOUNT NOT TO EXCEED \$106,818.80. (City Manager)

Mr. Pugliese moved, Mrs. Cook seconded to waive the reading of the legislation; motion CARRIED. Mr. Pugliese moved, Mrs. Cook seconded to waive the Charter requirement of two readings. On the roll call to waive the Charter requirement of two readings: Mrs. Cook, Mr. Hamrick, Mr. Roskovics, Mr. Pugliese, Mrs. Misener, Mr. McClure, Mr. Ducro IV voted yea; motion CARRIED. On the roll call to adopt the legislation: Mrs. Cook, Mr. Hamrick, Mr. Roskovics, Mr. Pugliese, Mrs. Misener, Mr. McClure, Mr. Ducro IV voted yea; motion CARRIED.

UNFINISHED BUSINESS

None

NEW BUSINESS

- **Liquor Permit Transfer Requests:** The Clerk presented the following requests for Council's consideration on whether to have a hearing:

1. **MACS Convenience Stores LLC, dba Circle K - 5209**, 5825 S. Main Street, Ashtabula, OH 44004, to MACS Holding Co LLC, dba Circle K - 5209, 5825 S. Main Street, Ashtabula, OH 44004

Permit Types and Descriptions:

- C1 Beer only in original sealed containers for carry out only until 1:00 a.m.
- C2 Wine and Certain prepackaged mixed drinks in sealed containers for carry out only until 1 a.m.

2. **MACS Convenience Stores LLC, dba Circle K - 5212**, 1910 West Prospect, Ashtabula, OH 44004, to MACS Holding Co LLC, dba Circle K - 5212, 1910 West Prospect, Ashtabula, OH 44004

Permit Type and Description:

- C1 Beer only in original sealed containers for carry out only until 1:00 a.m.

3. **MC3 Holdings LTD**, 1st Floor & Patio, 1119 Bridge Street, Ashtabula, OH 44004 to TCB13 LLC, 1st Floor & Patio, 1119 Bridge Street, Ashtabula, OH 44004

Permit Types and Descriptions:

- D1 Beer only for on premises consumption and in sealed containers for carry out, until 1:00 a.m.
- D2 Wine and certain prepackaged mixed drinks for on premises consumption and in sealed containers for carry out until 1:00 a.m.

4. **Rockin Johnnys LLC, dba Grindhouse Gourmet Burgers**, 1001 Bridge Street, Ashtabula, OH 44004 to Grindhouse Gourmet Burgers LLC, dba Grindhouse Gourmet Burgers, 1001 Bridge Street, Ashtabula, OH 44004

Permit Types and Descriptions:

- D1 Beer only for on premises consumption and in sealed containers for carry out, until 1:00 a.m.
- D2 Wine and certain prepackaged mixed drinks for on premises consumption and in sealed containers for carry out until 1:00 a.m.
- D3 Spirituous liquor for on premises consumption only, until 1:00 a.m.
- D6 Sale of intoxicating liquor on Sunday between the hours of 1:00 p.m. and Midnight

The number 1 and 2 establishments are located in Ward 5; numbers 3 and 4 in Ward 2. The Councilors for the respective wards announced that no hearing is required. Hearing no objections from the dais, no hearings will be requested.

- **Resolution Requests**

The President motioned to have the following resolutions drafted:

1. **A RESOLUTION OF APPRECIATION TO MR. CHRIS RAAB** for the art work at Smith Field, for organizing TABS (The Arts on Bridge Street), and for his dedication to The Arts in the City of Ashtabula. Mrs. Cook seconded; motion CARRIED.
2. **A RESOLUTION OF APPRECIATION TO MR. GREGORY HAZELTINE** for organizing the Arts-in-the-Alley event held this summer on Main Avenue. Mr. Hamrick seconded; motion CARRIED.
3. **A RESOLUTION OF APPRECIATION TO MR. LARRY FARGO** for volunteering his time, talents, efforts resources, and monetary contribution to restore the fountain in LCpl Kevin M. Cornelius Memorial Park and for his contribution to the Arts-in-the-Alley event held this summer on Main Avenue. Mr. Pugliese seconded; motion CARRIED.

- **NOPEC**

The City Manager announced he just received an email from NOPEC that they have secured a three year deal with nexAir, LLC to provide electric services due to FirstEnergy Solutions (FES) dropping out of the contract. He reported the press release also says NOPEC customers should expect to receive their opt out notices for service under the new program in the next few weeks – which is sooner than the City was originally told. He said the terms with nexAir are about the same as they were with FES but that the new agreement has a variable rate. The Manager encouraged residents to conduct the “apples-to-apples” comparison he spoke of earlier in this meeting. He said nexAir’s contract is for three years, but is not sure every individual will be locked in for the contract timeframe because usually every year we get an opt-out notice from them.

- **Veteran’s Day Activities**

The Vice President announced that on Friday, November 11, the Elks Club will host their annual Veteran’s Dinner. He also announced the American Legion is having a 1:00 p.m. ceremony to rededicate the memorial wall, and a ceremony will take place in Veteran’s Park on Main Avenue beginning at 11 or 11:30 a.m.

MISCELLANEOUS

None

GENERAL PUBLIC DISCUSSION

- **Ms. Wilma Cole, 1403 Norwood Drive**

Ms. Cole first commended City Council on the “tremendous”/“wonderful” change in City Council she has seen in the last few years, from what it used to be.

She said, "Thanks for all the professionalism." Ms. Cole reported that this evening she is accompanied by some of her elderly neighbors, all of who reside on Norwood Drive Extension by Eleanor Drive. She said they were in attendance to voice concerns about:

- Going years without having their road paved
- Unsafe road conditions; there being a hole/dip in the road which becomes an ice rink in winter. Once time an accompanying neighbor hit it and his car went up into a snow bank. He hurt his back and "is still fighting with that".
- Caved sidewalks
- A telephone pole that created a "big/huge" hole. Cleveland Electric Illuminating Company (CEI) told them they were not aware of the hole, and that no one has called in over a year.
- With having to constantly fill their treelawn in with dirt to make it level ("something is happening on the street")
- Their road not getting plowed. She said former foreman Dennis Johnson told her the road gets plowed during the middle of the night. She said her driveway is plowed but she's unable to get on to the road because the road is not plowed. She said last year an ambulance got stuck on the road. At times her boss has had to take her home because she is unable to get her vehicle down the unplowed road.
- Elderly resident who have to go to the doctor and store, but are unable to at times due to unplowed road conditions
- "These people" have sewage coming into their tub. They called a sewer. The company cleaned it out and said it's not you, it's down at the end of the road; and
- Leaning sidewalks.

Ms. Cole said she was not complaining, but was just asking for help.

The City Manager reported sidewalks are the responsibility of the homeowner. He told her about the City's Sidewalk Repair/Replacement Program. Ms. Cole said she is aware of the program, said they used it to have new sidewalks put in, only to have the aprons already crack.

The City Manager said CEI knows about the pole and that he will follow up with them.

The City Manager said the areas Ms. Cole reports there to be dips in the road and treelawn will be reviewed first on the maps to "see what's going on there". He said it could be laterals, actual storm or sewer lines and believes all the sewer lines are in the middle of the road on Norwood and the storm lines are in the treelawn. He said, secondly, they might go out there and clean them if a lot of debris is coming back when they are being cleaned, or sometimes pieces of clay tile will be found, then a video camera is sent into the area to see what is going on.

In response to the Ward 1 Councilor's inquiry as to what could cause a dip in the road, the Manager said it could be a sewer collapse or crack, or a leak from AQUA Ohio, which cannot be seen because it has not come up through the ground. He said sometimes they just leak right into our systems and you never know it is happening; however, at the same time, they are undermining the road. The Manager said there have been times when we have gotten into [these] lines and noticed water pouring in and then know it was an AQUA cut.

The same situation happen when the big bubble rose up in the road in front of McDonald's on Lake Avenue. AQUA continued to say it was not theirs, but when they dug it they discovered a valve had been leaking for almost two years, and said symptoms do not always surface.

Ms. Cole asked for a timeframe. The Manager said he would try to get to it before the winter arrives.

The Vice President asked if the Ashtabula County Soil District could do some testing because even Gladding Avenue, which is in the same area as Norwood, eroded very quickly. The Manager said that was faulty workmanship. The Vice President said he sees areas that used to be wet are no longer and those which were dry are now wet. The Manager said extensive amounts of cleaning and televising of our storm drains has been performed. He said what has not been done in many years is "rebuild roads from the ground up". When this is done curb drains are replaced. He said no one really notices curb drains, which are different than a storm drain. Curb drains take in a lot of the water that permeates through the ground and gets under the surface. They are very hard to clean and televise because they have smaller pipes. He said "a ton of those are collapsed around the community. The only way to repair them is a completely tear out and rebuild of the roads. It is so expense to do that probably only one per year could be accomplished. We were able to get AQUA to move almost all of their services into the treelawn so we don't have to have those issues on our news streets. We try to coordinate the same with all entities to get their services out of our roads so it is easier to maintain going forward." He said most of the problems steams from old infrastructure; there are water pipes in the community that are over 100 years old. He said a large break on Main Avenue revealed there to still be a wooden pipe in the ground.

- **Rebecca (and Judy), 5013 Topper Avenue**

Rebecca reported she, her fiancé, and Judy have dealt with stray dogs that reside at 5009 Topper Avenue, an owner-occupied property with no fencing, ever since moving to Topper Avenue in February of this year. They have tried to deal neighborly with the dog's owners but had to end up calling the City's Animal Control Officer (ACO). The ACO told them he is unable to assist because the problems usually occur at night; that he cannot see what is happening at night; and he is off the clock when the incidents occur. Rebecca said one of the dogs is a pit bull mix, one is old and follows the first one around, and one is a 6 month old pit bull. The dogs are never walked. They are in the house all day. When the owner gets up in the morning the dogs are let out to go astray and, do their business in her yard, damage her flowers, dig holes in the yard, comes into her backyard and on her open porch. Every time they ask the neighbors to contain their dogs nothing is done. Rebecca said on August 21, she called the Police Department. A patrolman issued a verbal warning, but nothing has changed. When asked if they have witnessed the damage being done, Rebecca and Judy replied, yes, that they go out and holler but nobody comes out of the house where the dogs reside. Rebecca said October 31, was the last time the Police Department was called.

Judy said the dogs are very aggressive, they run free in midday, one has come at her during a time when "luckily there was a big walking stick on the ground and I picked it up to threaten the dog and the dog just kept coming and the neighbor came out and yelled at it and sent it off to its owner". She said the dog has come into her yard and growled and bristled at her when she is doing yard work, at which time she just goes into her home.

She said she has had to warn guests who come to home to be careful to make sure if they see a stray dog not to exit their vehicle. She said company to her home has decreased because of this issue.

The Manager reported:

- 3 dogs are not allowed to reside at a property
- Pit bulls are no allowed in the City unless they are adopted and certified by the Animal Protective League. This resulted from meetings City Council had with the APL because the APL said they had an overwhelming population of pit bulls because the City would not allow pit bulls to reside in City limits. He said he believes they continue to have an overwhelming population of pit bulls at the shelter, nonetheless.
- If a call is placed to the Police Department emergency or non-emergency phone numbers, an officer can be dispatched to the scene. If they witness the unwanted activity they can issue warnings, as they have been doing. If warnings have been issued and they have to continue to return they are able to issue a citation (and so is the ACO). The Police Department is also able to have the commanding officer call the ACO in for duty to address the issue at night and on weekends. (Judy said officers are not going to witness the activity because the dog runs around in her yard, he is growling at her, and then the owner yells at the dogs, at which time the dogs go home. She then asked how the officer is going to witness it.) The Manager said the incident report can still be taken. And, if they keep adding up and the City has already been there (and it sounds like the officers have witnessed this to some degree), action can be taken. Since the Police Chief is here this evening, perhaps we could get the word back that if 5013 Topper Avenue has a call for dogs-at-large "there's no more warning, there's no more, whatever, let's get this taken care of."

The Ward 4 Councilor asked if this is the same dog that roams over to Osborne Avenue; the women responded, yes.

Rebecca and Judy said when the dogs are on a lease the lease is very short, which prohibits them from roaming as they should be able to. The Vice President said the City of Ashtabula also has "tethering laws" on the books.

The Ward 4 Councilor said all 'calls-for-service' do no result in a generated report. She encouraged the residents to be sure they get a copy of each report they make. The residents did have one report in hand.

ACTION: The City Manager said he will speak with Police Chief Stell and have the ACO address the violation of having three dogs.

CLOSING REMARKS

The President announced the next Regular Council meeting is scheduled for Monday, November 21, at 7:00 p.m.; Pre-Council is at 6:00 p.m., and the public is welcome.

EXECUTIVE SESSION

None

ADJOURNMENT

Hearing no further business to come before this Council, the President issued a reminder to "Remember to Keep Believing in Ashtabula", and adjourned the meeting at 8:34 p.m.

DATE APPROVED: November 21, 2016
J. P. Ducro IV

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

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