

City of Springdale Council

May 1

2013

President of Council Marjorie Harlow called Council to order on May 1, 2013, at 7:00 p.m.

The governmental body and those in attendance recited the pledge of allegiance.

Mrs. McNear took roll call. Present were Council members Diehl, Emerson, Hawkins, Knox, Squires, Vanover and Harlow.

The minutes of April 17, 2013 were approved with six affirmative votes. Mrs. Emerson abstained.

COMMUNICATIONS - none

COMMUNICATIONS FROM THE AUDIENCE - none

PROCLAMATIONS

Mayor Webster read a proclamation declaring the month of May Building Safety Month. Mayor Webster presented the proclamation to Bill McErlane, Building Official.

Mayor Webster read a proclamation declaring the week of May 12-18, 2013 as Police Week in the City of Springdale.

ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 13-2013

ADOPTING A SUPPLEMENTAL APPROPRIATION/ESTIMATED RECEIPTS ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES AND ADJUST ESTIMATED RECEIPTS FOR THE CITY OF SPRINGDALE, OHIO DURING THE FISCAL YEAR ENDING DECEMBER 31, 2013

Mr. Vanover made a motion to adopt and Mrs. Emerson seconded.

Ordinance 13-2013 passed with seven affirmative votes.

ORDINANCE NO. 14-2013

ACCEPTING AN ASSISTANCE FOR FIREFIGHTERS GRANT, ACCEPTING A PROPOSAL UNDER THE STATE ADMINISTRATIVE PURCHASING PROGRAM, AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO A CONTRACT WITH PHYSIO-CONTROL CORP. FOR THE PURCHASE OF FOUR (4) LIFEPAK 15 DEFIBRILLATORS AND DECLARING AN EMERGENCY

Mr. Hawkins made a motion to adopt and Mr. Vanover seconded.

Mrs. Harlow said this ordinance piggybacks off the first ordinance. The firefighters did receive a grant of \$114,000. Our portion of that would be \$5,992.60.

Ordinance 14-2013 passed with seven affirmative votes.

ORDINANCE NO. 15-2013

AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH TEC ENGINEERING, INC., FOR THE PROVISION OF PROFESSIONAL SERVICES FOR THE OPERATIONS AND MAINTENANCE OF THE CITY OF SPRINGDALE'S TRAFFIC CONTROL SYSTEM AND DECLARING AN EMERGENCY

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Mr. Knox made a motion to adopt and Mr. Vanover seconded.

Mr. Parham said the City has had an agreement with TEC Engineering Inc since 1997. In the agreement before you this evening, the monthly rates are consistent with what's in place at this time. If you go to the last page of the agreement, you will see the Traffic Engineering Service Rates. There have been modest adjustments to those rates. The rates for the Principal and Senior Project Manager have not changed. The rate for the Project Manager has been adjusted by \$4 which is approximately three percent. The Project Engineer rate has an increase from \$96 to \$98, a two percent increase. The Design Engineer rate goes from \$74 to \$77 an hour, a four percent increase. The Technician rate has moved from \$54 to \$58. In previous agreements with TEC we have not identified the Signal Technician. That position has been in place for about ten years with TEC, however it was not recognized in any of the previous agreements. We have now inserted it at the same rate as the Project Engineer position. The proposal before you this evening is to enter into a three-year agreement with TEC. TEC assisted the City in securing the grant for our traffic signal upgrade project we recently completed. As a result, all our traffic signals throughout the community are LEDs and are much more efficient. TEC has served the City very well.

Ordinance 15-2013 passed with seven affirmative votes.

#### OLD BUSINESS

Mrs. Emerson said I'd like to ask Mr. Forbes a question about the Zoning Code regarding the recreational vehicle regulations. In reading here we said that those who currently have campers that are within code would be grandfathered in as long as they were using that space once every six months. Is that correct?

Mr. Forbes said it would be a legal non-conforming use. You can continue to use it that way. If that use is suspended for six months then your right to continue it goes away.

Mrs. Emerson asked is it by law that we have to grandfather people in or is that just what we are deciding to do?

Mr. Forbes replied that is the law in Ohio. If you comply with the Zoning Code and then the Zoning Code changes in such a way that it makes you out of compliance, you are considered grandfathered. The real term is that you are a legal, non-conforming use. It means you don't conform to the new Zoning Code but you did conform at the time you entered into that use with the Code that was in place.

Mrs. Emerson said so any change we make, if people were conforming and we change it, there's no way to say at this point this is going to be the new code?

Mr. Forbes responded everyone moving forward has to comply with the new code but if you already complied with the old code you get to continue that use, but the law allows if you discontinue that use for a period of time, in our case six months, then you don't get to go back under the old code. Once you discontinue it for a time then you have to comply with the new code.

Mrs. Emerson stated, with that said, the Mayor had made a comment at the last Council meeting that it will be on the residents' shoulders to prove that we've used that. How is the resident supposed to prove that? With a picture showing it parked on the driveway?

Mayor Webster said you asked a good question. The flip side of that is how would Bill ever determine who is in compliance and who isn't. He would have to tour the City every day for six months to see what resident happened to have a motor home there and then check the box that that address is okay. It would be impossible. The onus has to be on someone and in this case, I think the onus has to be on the owner.

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Mrs. Emerson said so if a resident comes to you and asks how do I prove that I've used this camper in my driveway within the last six months, do I take a picture of it with the date on it.

Mayor Webster asked Mr. McErlane to come to the podium.

Mr. McErlane said it's a lot easier when you have a physical, stationery improvement and it disappears. It's going to be a little more difficult when something moves in and out. On the effective date of the code we intend to log those that are parked in the front yard and then just try to monitor it from there. Another thing we have to do is go back through our variance record and determine which ones are there on variance. Those are permitted to be there indefinitely.

Mrs. Emerson stated I'm pleased with what Planning Commission has done. I love getting rid of the campers in the front. I have a camper that is within code but I hate it in front of the house, so we have ours in storage and you decide to check it and we don't take it out of storage, you might miss the day it was parked in my driveway. So I have to take a picture of it in my driveway. I don't know how residents are going to conform to this.

Mr. McErlane stated you are allowed to have your vehicle parked there for up to seventy-two hours which makes it even more difficult to monitor.

Mrs. Emerson said if mine is in my driveway for three days does that count for my six months?

Mr. McErlane said if yours is not in your driveway in the next month and it has not been there for six months you are not permitted to park it there anymore.

Mrs. Emerson said I just see it real difficult to enforce this.

Mr. McErlane said it is going to be difficult to enforce. When it's not stationery, it's harder to prove.

Mrs. Emerson asked would you encourage residents to write a letter so you will know they are grandfathered in or are you just going to drive around and take names?

Mr. McErlane said we're going to make a log of which ones are there.

Mayor Webster said I imagine this ordinance will be enforced like many other ordinances in Springdale and everywhere else for that matter. It's on the books for a purpose and just like the multiple animals. I'm sure everyone up here knows someone who has more than two animals. We have a law on the books that says you can only have two animals but that's only enforced if somebody complains about it. If the animal is making a lot of noise and causing a nuisance in the neighborhood, you have every right to report it to the Building Department and have your neighbor cited, and they have to get rid of it. They have to get it down to two. That doesn't mean everybody in the City is going to do that because one person gets cited, and I suspect this is going to be the same thing. All of a sudden you see a camper parked in front of your house and it's never been there before, you call the Building Department and you and two or three other neighbors sign a complaint that it's never been there before.

Mr. Hawkins asked did you find any case law that says if we put the onus on the resident to notify the City, is there anything that would support us in doing that?

Mr. Forbes replied I didn't find anything in support or opposition to that concept. It's not actually part of our code. It's not a requirement in the code that anybody notify the Building Department that they have that and since it's not part of the code I don't know that we would have much authority to require them to basically register their non-conforming use at this point.

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Mr. Hawkins said since you are going to be cataloging this if residents were to contact you, it would be helping you.

Mr. McErlane said certainly if we challenge someone and they have indicated that they have had the vehicle there throughout some six-month period, we can certainly ask them to document that.

Mr. Hawkins said even now, folks who are here or watching now, if they are going to be in the situation of legal non-conforming, I suggest you contact the Building Department and let them know. It sounds like we're going to be in a position to log that information anyway.

Mr. Vanover said this is really no different than in my world. We have an electrical code change coming up at the end of this year. Unless you do something termed major, then you can leave yours sit. We have six amp fuse box services still in place in the City. Could you do that today? No, but the fact is they haven't done anything so they are grandfathered. At some point where they make a major change then things will have to be brought up to code. Since 1960 we get code changes every three years. Building is the same way. We see codes change all the time but we are not required to bring our properties up to that level unless we do a major remodel.

Mrs. Emerson said there aren't going to be any changes in my camper. Why are we setting six months? Are we trying to catch people so they'll be off?

Mr. Forbes responded the six months is not specific to this RV ordinance. The six months is in our Zoning Code. It applies to all legal non-conforming uses. It doesn't matter if you are an RV that comes out of compliance, or a shed, anything. If you discontinue that use for six months you can't return to it.

Mrs. Emerson said we are taking out the restrictions on height and length. I decide I want to buy a big new motor home. I'm grandfathered in. I can park that in my driveway?

Mr. McErlane said you are grandfathered in based on the conditions that exist today. You can park that particular vehicle in your driveway. You can't park a larger one.

Mr. Parham said it may be helpful for residents to take a photograph and preserve that or even share that information with the Building Department. If it's dated it could help the department as they are trying to perform their inventory.

Mr. Parham said at the last meeting I requested legislation for the purchase of police cruisers and I think we discussed that before the general public. In case someone is surprised that there is no legislation to authorize the purchase of police cruisers, I thought we should explain why. Following the last meeting, it was brought to our attention that the threshold for the City of Springdale and municipalities throughout the State which requires us to advertise and bid for contracts for goods and services may have been increased from the current amount of \$25,000. So that everyone understands, anything above that threshold, must be brought back before Council for approval. For those items, we have to advertise and receive competitive bids. In 2010 in a meeting the Mayor and I attended of the Hamilton County Municipal League, a representative of the Governor was there and indicated at that time the Governor was going to make adjustments to this threshold. He also indicated that it was only being adjusted for townships and villages. It was not being adjusted for municipalities because we had not made that request of them. Subsequently, in 2012 the State legislature made the adjustment. The adjustment was made in ORC 735.05. The City of Springdale Charter references 735.05 and identifies whatever the amount is identified in 735.05 as the threshold for advertisement and competitive bidding. The reason I reference that particular section is because there are a number of them, 735.04, 03, 02 and a couple reference different departments or agencies. Again, our Charter suggests whatever the amount identified in 735.05, is the amount of our requirement for bidding and advertising. Since that number was adjusted in 2012 from \$25,000 to \$50,000, the City's new threshold is now \$50,000. As was mentioned previously, the State bid list identified cruisers in the amount of \$22,868 and because we would be purchasing two,

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our total cost would roughly be \$45,000. Clearly that's under the \$50,000 threshold, so we didn't think it was necessary to have legislation tonight. However, I thought it would be important to share that information with you. In the future when we are purchasing cruisers, even if it does not require legislation we will still inform you of the process and share the information with you.

We also had one other piece of legislation that we discussed with you and requested be brought to the floor. It is the legislation on a Land Reutilization Program. We've decided to take a step back at this point. We're conducting further research to make sure that we are clear as to how exactly the program works for municipalities and so at this point we have taken it off tonight's agenda. Once we feel more comfortable, then we will come back and present it to Council.

NEW BUSINESS - none

MEETINGS AND ANNOUNCEMENTS

Board of Health - May 9  
Planning Commission - May 14  
Board of Zoning Appeals - May 21

Mr. Thamann stated registrations are now being taken for the 2013 Sailfish Swim Team. Registration fee is \$35 and there are need based scholarships available for anyone who can't afford the \$35 fee. Swim lesson registrations are being taken at this time. Contact the Community Center for dates, times and fees. The pool opens May 25. Fall soccer registration goes through the end of this month. The Springdale Bicycle Safety Program will be held Saturday, May 18 from 10 a.m. to 2 p.m. at the Community Center. Bicycles will be registered by the Police Department to aid in the recovery if any bicycle is lost or stolen. Also free inspections will be performed and the first 100 participants will receive a free bike helmet. The Law Enforcement Expo will be held at Tri County Mall on May 18 and 19.

COMMUNICATIONS FROM THE AUDIENCE - none

UPDATE ON LEGISLATION STILL IN DEVELOPMENT

Amending Section 153.480 of the Zoning Code - May 15

Mayor Webster said I'd like to alert Council, in case you hadn't noticed, we moved Barbara to a new location. That is the result of some enhancements we are making to the sound system. Some of the sound is better. I don't think it's where we want it yet so Jerry is having them come back in and ratch it up another notch. At least I can hear something coming out of you, Kathy, and that has not always been the case. This is a multi phase process. We want to get the sound satisfactory to everyone, then we'll upgrade the video for people to make a presentation to Council, Planning Commission, BZA, whatever. It makes a lot more sense for them to be standing here to address Council.

RECAP OF LEGISLATIVE ITEMS REQUESTED - none

Council adjourned at 7:42 p.m.

Respectfully submitted,

Kathy McNear  
Clerk of Council/Finance Director

Minutes Approved:

Marjorie Harlow, President of Council

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