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**CITY OF HIGHLAND HEIGHTS  
MINUTES OF A COUNCIL MEETING  
HELD: NOVEMBER 13, 2007**

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President of Council Murphy presiding.

PRESENT: Councilmen Austin, Dolciato, Hargate, Legan, Mills, Murphy, Pilla; Acting Clerk of Council Olson; Fire Chief Bencin; Police Lieutenant Visoky; Service Director Evans; Building Commissioner Stouffer; City Engineer Blackley; Law Director Paluf.

ABSENT: Mayor Coleman (excused)

ACTION ON MINUTES: The reading of the Minutes of a Council Meeting held October 23, 2007 was dispensed with. A correction to the Minutes was requested by Mr. Mills as follows: Page 1, under MAYFIELD HIGH SCHOOL STUDENTS, 2<sup>nd</sup> line, change "Hillary Conley" to "Hillary Conkey". A correction to the Minutes was requested by Chief Bencin as follows: Page 1, under Fire Chief's Report, 4<sup>th</sup> sentence, change "14 man hours" to "64 man hours". Mr. Mills moved to accept the Minutes as corrected; seconded by Mr. Pilla. Ayes all; motion carried.

NDCL HIGH SCHOOL STUDENT: Mr. Hargate welcomed NDCL high school senior, Shannon Silk, who is attending this meeting for her American Government class.

**DEPARTMENT HEAD REPORTS:**

Fire Chief's Report: No report.

Council President Murphy thanked Chief Bencin for his efforts in coordinating the reseeded of some of the fire hydrants in the City. Chief Bencin replied that he had contacted the Cleveland Department of Water several times to arrange for a crew to be assigned to our City; however, the response was minimal and the project will not be fully completed until Spring, 2008.

Police Chief's Report: Lt. Visoky reported that during the month of October the Police Department responded to 1,021 calls for service, which included 15 property damage accidents of which two were injury accidents. He said that 25 prisoners were held for a total of 889 hours.

Mr. Austin stated that he was contacted by a Rose Gype on Whiteford who is complaining about a continuing problem of excessive noise from a motorbike in her neighborhood. Lt. Visoky replied that there have been increased complaints regarding this matter. He said that an officer spoke with the motorbike's owner this past Saturday and advised him that he will be cited with disturbing the peace if his actions continue.

Service Director's Report: Service Director Evans reported that the City is in receipt of a check from the Solid Waste District in the amount of \$2,655 as reimbursement from the County Commissioners for the 50-cent per ton increase during 2006. He explained that prior to 2006 the tipping fee was \$1.00 per ton and that it was increased in 2006 to \$1.50 per ton with the provision that the cities would be reimbursed the additional 50-cents per ton for the year 2006 only. He said that the City will now have to begin paying the entire fee of \$1.50 per ton.

Mr. Evans stated the leaf pickup program is 20% behind from last year because the leaves are not falling. He said that no over-time is being expended. He said there are three leaf crews, each responsible for one-third of the City, that are currently completing their circuits in four days; however, each circuit could increase to as much as 14 days depending on the number of leaves to be picked up. He stated that every neighborhood receives an equal amount of service and that it is not necessary for individuals to call in for leaf pick-up. In response to Mrs. Murphy's inquiry if the leaf pick-up season will be extended, Mr. Evans replied that some of the same equipment is used for both leaf pick-up and snowplowing/de-icing, and that they will attempt to respond to whatever conditions are present.

Mr. Evans recommended passage of Agenda Item No. 2 that was discussed at the Committee of the Whole meeting to award a contract to DiNunzio Landscaping for the 2007 Fall Street Tree Program.

Mr. Evans recommended passage of Agenda Item No. 3 that was discussed at the Committee of the Whole meeting which is a change order to the contract with A & J Cement Contractors, Inc. to repair three catch basins and a recent water main break on Franklin Boulevard.

Mr. Evans recommended passage of Agenda Item No. 4 that was discussed at the Committee of the Whole meeting which is a change order to the contract with Fabrizi Trucking & Paving Co., Inc. to extend the sanitary sewer on Eastlawn Drive several hundred feet further to the south.

Building Commissioner's Report: No report.

City Engineer's Report: City Engineer Blackley reported as follows:

- The Park Project is substantially complete except for some punch list items that should be completed soon. Two electronic signs still need to be installed and the motorized gate should be installed the end of this week.
- The Illuminating Company has indicated they will not be able to install the park street lights until January, 2008 due to a backlog and the fact that street lighting is not their priority. He stated that realistically the lights may not be installed until March, 2008. In response to Mr. Dolciato's inquiry as to The Illuminating Company contact, Mr. Blackley replied Jenni Haldi, Department of Engineering, Concord office on Auburn Road.
- He supported approval of Agenda Item No. 3 that was discussed at the Committee of the Whole meeting which is a change order to the contract with A & J Cement Contractors, Inc. to repair three catch basins and a recent water main break on Franklin Boulevard.
- He supported approval of Agenda Item No. 4 that was discussed at the Committee of the Whole meeting which is a change order to the contract with Fabrizi Trucking & Paving Co., Inc. to extend the sanitary sewer on Eastlawn Drive several hundred feet further to the south.

Mr. Austin inquired as to the whereabouts of the split rail fence that was removed from along the baseball field. Service Director Evans replied that the fence in question was removed from along the old roadway and put in storage, and is now being installed as an in-house project along the tennis courts along with some additional fencing.

Finance Director's Report: No report.

### **COMMITTEE REPORTS:**

Legislative & Finance Committee: No report. Mr. Legan requested that a 30-minute meeting be scheduled prior to the next Committee of the Whole or regular Council meeting, whichever occurs first, with the intent of L&F, Mayor Coleman and Law Director Paluf brainstorming about what more they can do with the item brought up by Mr. Austin regarding regulation of motorbikes.

Drainage Committee: Mr. Mills stated that he is waiting for the signed drainage easements from City Engineer Blackley and Law Director Paluf for the two home owners on Miner Road. Mr. Blackley replied that he has not received the signed easements from either property owner, but that he met with Mrs. Nancy McCracken who was receptive to the easement and who will discuss the matter with her husband.

Planning and Zoning Commission: Mr. Pilla reported a meeting was held November 12<sup>th</sup>.

- **Crostatas, 558 Bishop Road.** All requested variances were approved at the Public Hearing held on November 12<sup>th</sup>.
- **Aberdeen Commons Assisted Living Development, 399 Bishop Road.** Approval was given to extend the period of validity of the existing fifteen-year conditional use permit to permanent validity in order for the applicant to obtain financing for the \$7 million construction loan. The Commission approved the revision because the single-use facility is subject to annual inspection and compliance with state regulatory requirements.
- **Laura Herbe, 488 Miner Road.** Review Request for Variance to side yard requirements for an expansion to the existing garage; Schedule Public Hearing.
- **Bass Energy.** Discussion on proposed drilling sites of two gas wells. The matter was tabled because the applicant must return to Council for approval of the drilling sites.

Council President Murphy added that she and other Council members that attended the P&Z meeting left with more questions than answers regarding the Bass Energy gas well project. She said it was apparent that there has been miscommunication and that the agent for Bass Energy has no understanding of the City's approval process as outlined in Section 733 of the Codified Ordinances of Highland Heights. In response to Mrs. Murphy's inquiry if the City, being the landowner of the park, has authority on approval, Law Director Paluf replied yes.

Council agreed that Bass Energy should meet with Council to discuss alternative drilling sites and for Council to determine if any of those sites are acceptable locations. Mr. Pilla stated that City Engineer Blackley must be involved to identify plausible drilling sites. Mrs. Murphy stated that Bass Energy will be asked to appear before Council and asked Mr. Blackley to submit his maps for distribution to Council members showing parcels of the park land and identifying the ODNR parcels. She requested that all Council members formulate pertinent questions for Bass Energy.

City Engineer Blackley stated that a constraint in drilling is that a well must be set back a minimum of 300 feet from residential property lines and have a minimum separation of 1200 feet

between wells. Mrs. Murphy stated that it is her opinion that the well sites should not be located in our park's wooded areas and should exceed all state minimum setback requirements.

Mr. Pilla questioned whether the two proposed wells are tapping into the same reservoir. If that is the case, he questioned whether one well would be sufficient so as not to deplete the reservoir twice as fast. He inquired if there are any wetland issues in the park. Mr. Blackley replied that he cannot answer these questions.

Commission on Aging: Council President Murphy reported that 223 senior adults received flu vaccines this year at the Community Center. She said that the holiday party will be held December 12<sup>th</sup> at 11:30 a.m. at the Community Center, and extended an invitation to Council.

Mayfield Area Recreation Council (MARC): Mr. Dolciato reported that MARC met on November 8<sup>th</sup>. He said there are currently 44 participants in the ongoing flag football program. The 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade floor hockey program is in progress and the high school program begins in January. The girls' basketball program started last Saturday and runs thru mid-December. The boys' basketball program begins in January.

Mr. Dolciato reported they have a record \$42,000 in the MARC account which is \$20,000 above last year. He said the MARC program and number of participants is growing each year and is so successful due to the remarkable efforts and concern of its organizers.

Safety & Service Committee: No report. Mr. Hargate requested that a 30-minute meeting be scheduled prior to the next Council meeting on November 27<sup>th</sup>.

Park and Recreation Commission: Mr. Austin reported they will meet on November 15<sup>th</sup> at 7:00 p.m. to discuss the Christmas celebration on December 8<sup>th</sup>. He said he hopes the celebration is as successful as the Halloween party and commended Recreation Director Ianiro for the nice job he does with these affairs.

In response to Mrs. Murphy's inquiry if Park and Rec is aware of the gas well proposals, Mr. Austin replied they are aware that Bass Energy is submitting drill sites but are waiting for plans of where these sites are suggested to be located and approval from Council.

Law Director's Report: Law Director Paluf stated that purchase of the church property in front of City Hall will be in mid-December. In response to Mr. Austin's inquiry if there has been a walk-thru of the structure, Mr. Paluf replied that once the church has signed the purchase the City department heads will have a one week walk-thru period. Mr. Austin expressed concern about the church's plan to take wiring from the building. Mr. Paluf replied the church will only take pews and altars.

**MAYOR'S REPORT:** No report.

**ITEMS TO BE ADDED TO THE AGENDA:** No items were added.

**MEETING OPENED TO THE PUBLIC:**

Frank Skala, homeowner, 5700 Hawthorne Drive, and resident of Highland Heights for 14 years, stated he is part of a group of people who collected 100 signatures in a matter of hours on a petition that states "We believe the proposed plan to construct gas wells in Highland Heights Park in pristine woods is proceeding too quickly and requires further study. We are requesting

that the Highland Heights City Council make no decision about gas wells in the Highland Heights park for at least one year". He presented the original list of names to Council (see attached). He said that the overwhelming response from residents is that they knew nothing about the proposed plans to drill in the park; they want more information; and they are not necessarily against gas wells but want a better site where trees will not be cut down. Mr. Skala presented Council with five pages of questions regarding wetland conditions, the meadow and nature conservancy next to proposed wellhead site #2, ODNR locations, drilling sites, and drilling depth (see attached). He requested that Council provide written responses for the residents to review and then schedule a Town Hall meeting for discussion on this matter.

Council President Murphy replied that Council shares many of the concerns of the people. She said that the list of questions will be given to members of Council and department heads for written answers and that they will be invited back to Council for discussion of the answers.

Mr. Skala thanked the Mayor and Council for keeping the City out of the red and in the black financially. He said they want to be kept in the green with green trees that help property values of every house in Highland Heights. He stated that the 400-500 trees that would be destroyed are part of the reason that Highland Heights was rated #75 in Money Magazine as the top 100 places to live.

Mr. Granito, homeowner, 640 Davidson Drive, stated that he was surprised to hear that residents were not given notice of the pre-determined project to drill gas wells in the Highland Heights park. He referenced Ohio Revised Code, Title 15, Section 1509 that cites the State cannot force a landowner to have a well. He said that drilling depth is problematic because a driller is only required to file a request with the Department of Energy to drill deeper.

Mr. Granito stated that another alternative other than finding a new site for the gas well is to not drill at this time. He questioned whether there is a need to generate money from gas wells given the statistics in Mr. Pilla's recent campaign material that over the past two years there has been a net gain of over 750 new jobs, that business revenue increased revenue by 34% and there is \$2.25 million in the general fund. Based upon that, Mr. Granito questioned whether the wells are needed at this time and asked that Council keep in mind the best interest of the residents who would rather enjoy the park without the presence of wells.

Amy Feran, homeowner, 5650 Hawthorne Drive, resident of Highland Heights for 15 years, and member of the Tax Incentive Review Council for 7 years, expressed disappointment in Mayor and Council for their non-communication and non-disclosure in their newsletters on issues that affect the quality of life in Highland Heights such as putting gas wells in the wooded, undeveloped park. She said that Council must apprise the residents of what is happening in order for them to be heard. She referenced the Codified Ordinances of Highland Heights, Section 733.20, that cites no firm shall drill a gas well within 500 feet of a residential property line, public park or playground. She stated that the ordinance expresses it is illegal to put gas wells in the park and urged the City to obey the law.

Kenneth Messinger-Rapport, homeowner, 5600 Hawthorne Drive and resident for 10 years, stated there is a lack of communication between Council and the residents as well as Council and Bass Energy. He urged the City to contact Bass Energy to advise they do not have approval to drill this Friday as they stated they are planning to do.

## **NEW BUSINESS:**

**MOTION AUTHORIZING COUNCIL DESIGNEE FOR HB 9 PUBLIC RECORD:** A motion was made by Mr. Mills designating Cathy Murphy and Jean Buchak as designees of the Mayor and Council to attend the required training as mandated by House Bill 9 Public Records; seconded by Mr. Pilla. Ayes all; motion carried.

**MOTION AUTHORIZING A CONTRACT WITH DINUNZIO LANDSCAPING FOR 2007 FALL STREET TREE PROGRAM:** A motion was made by Mr. Pilla authorizing a contract with DiNunzio Landscaping in the amount of \$12,080.00 for the 2007 Fall Street Tree Program; seconded by Mr. Mills. Ayes all; motion carried.

**ADOPTION OF RESOLUTION 50-2007:** Council listened to the First Reading in title only of Proposed Resolution 50-2007 which description is: "A Resolution authorizing a change order to the contract with A & J Cement Contractors, Inc. in an amount of Eleven Thousand Nine Hundred Thirty Nine Dollars and Seventy Cents (\$11,939.70), and declaring an emergency." Mr. Austin moved to suspend the Second and Third Readings; seconded by Mr. Mills. Ayes all; motion carried. Mr. Austin moved to adopt; seconded by Mr. Legan. Ayes all; motion carried.

**ADOPTION OF RESOLUTION 51-2007:** Council listened to the First Reading in title only of Proposed Resolution 51-2007 which description is: "A Resolution authorizing a change order to the contract with Fabrizi Trucking & Paving Co., Inc., in an amount of One Hundred Eight Thousand Six Hundred Fourteen Dollars (\$108,614.00), and declaring an emergency." Mr. Pilla moved to suspend the Second and Third Readings; seconded by Mr. Austin. Ayes all; motion carried. Mr. Mills moved to adopt; seconded by Mr. Pilla. Ayes all; motion carried.

**SECOND READING PROPOSED ORDINANCE 18-2007:** Council listened to the Second Reading in title only of Proposed Ordinance 18-2007 which description is: "An Ordinance authorizing an Economic Development Grant with Philips Medical Systems, and declaring an emergency."

**SECOND READING PROPOSED ORDINANCE 19-2007:** Council listened to the Second Reading in title only of Proposed Ordinance 19-2007 which description is: "An Ordinance authorizing an Economic Development Grant with DiskCopy - LLC, and declaring an emergency,"

**ADJOURNMENT:** A motion was made by Mr. Mills and seconded by Mr. Pilla to adjourn the meeting. Said meeting adjourned at 8:59 p.m.

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Acting Clerk of Council

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President of Council