

## MINUTES

### REGULAR MEETING OF COUNCIL

May 10, 2010

#### Call to Order

Mayor Ronald A. D'Epifanio called the Regular City Council Meeting to order at 7:00 PM at the Fairfield Municipal Building, 5350 Pleasant Avenue.

#### Prayer/Pledge of Allegiance

Councilmember Judd led in prayer followed by the Pledge of Allegiance.

#### Roll Call

Clerk Johns called the roll of Council. Present members were Councilmember Rhodus, Councilmember Meyers, Councilmember Judd, Councilmember Snyder, Councilmember Oler, Councilmember Senger and Councilmember Abbott.

#### Agenda Modifications

Law Director John Clemmons requested that Council consider reading the second item under Public Works Old Business last and item number four under Public Utilities new business that is Mr. Senger's committee to be moved to the first item of new business. He explained the reason for the modification is because Councilmember Abbott has a reason to recuse himself on both items relating to his employment and it would be easier if both items were taken care of together. City Manager Pizzano suggested we then complete the Public Utilities Committee under new business.

#### Executive Session Requests

Councilmember Judd, seconded by Councilmember Abbott moved to approve an executive session to discuss the purchase of real estate. Clerk Johns called the roll of Council. Motion Carried 7-0.

#### Public Hearing(s)

No public hearings were scheduled.

#### Special Presentations and Citizen Comments

Patricia Koch, Butler County Board of Developmental Disabilities, explained in 2009 the Butler County Board of MRDD became the Butler County Board of DD. She briefly explained the reason for the change was because they people they served asked that the MR be dropped from the name because they were tired of being called retarded. She stated they have created a new logo and a new slogan "supporting possibilities" to encourage positive awareness about people with developmental disabilities. Mr. Koch showed a few Public Service Announcements and awareness videos. Ms. Koch directed everyone to [www.butlerdd.com](http://www.butlerdd.com) for further information.

Keith Davis, 1853 Vernon Place, discussed the need for an emergency plan at the local level. Mayor D'Epifanio commented he is on the executive committee of EMA and EMA Director Jeff Galloway will be making a presentation to us in the near future.

Ray McDaniels, 249 Palm Springs, stated he came to the meeting last week asking about the ISS Facility and he didn't mean to blindside Councilman Marty Judd. Councilmember Judd stated he has the information.

#### Mayor/Council Reports

Councilmember Abbott noted on the revenue front we are tracking just about one percent under projections at about \$117,000 under projections.

Councilmember Rhodus stated 42 properties are being maintained by the City Contractor, which is down from last year. He reminded everyone to call the property maintenance hotline at 867-5321 and Development Services Department will check into it and put it on

the contractor list to be maintained. Mr. Rhodus commented on the successful business dinner last week to meet with the large commercial/industrial developers/owners.

Approval of Minutes

The Minutes of the Regular Meeting of April 26, 2010 were approved as written.

**OLD BUSINESS**

**PUBLIC WORKS COMMITTEE**

**Marty Judd, Chairman; Mike Oler, Vice Chairman; Tim Abbott, Member**

Ordinance to authorize the City Manager to enter into a contract with ISS Facility Services Inc. for janitorial services at the various city facilities.

Councilmember Judd presented the third reading of this ordinance. Councilmember Judd, seconded by Councilmember Abbott moved for adoption. Councilmember Judd commented ISS Facility is a worldwide company established in 1901, it is not a minority owned company and it has not been their company policy to hire people with disabilities, but they do hire many minorities. He commented hiring them to do work here in the city will save approximately \$25,000 a year. Motion Carried 7-0. ORDINANCE NO. 39-10 ADOPTED 7-0.

Ordinance to authorize the City Manager to enter into a contract with Sunesis Construction for the ByPass 4 Widening – SR 4 to Symmes Road Project.

Councilmember Judd presented the second reading of this ordinance. He commented we have waited a long time to get this project rolling, so he would like to suspend the third reading. Councilmember Judd, seconded by Councilmember Rhodus moved to suspend the rules requiring three readings of this ordinance. Motion Carried 6-1, Councilmember Meyers dissenting. Councilmember Judd, seconded by Councilmember Rhodus, moved for adoption. Councilmember Meyers commented he opposed because this is well over 10 million dollars and he feels it is critical to let it run for all three readings and it gives the public the opportunity to come in and vet any issues they might have. He stated the comments have been very positive, but we have let multiple things set for three readings that are far less in value than this. Motion Carried 7-0. ORDINANCE NO. 40-10 ADOPTED 7-0.

Ordinance to authorize the City Manager to enter into a contract with Miller Pipeline Corporation for the 2010 lining of various storm sewers.

Councilmember Judd presented the second reading of this ordinance. Ordinance approved for second reading only.

*Councilmember Tim Abbott recused himself from the meeting at 7:30 PM.*

Ordinance to authorize the City Manager to enter into an agreement with Duke Energy for the replacement and installation of streetlights.

Councilmember Judd presented the second reading of this ordinance. Ordinance approved for second reading only.

**NEW BUSINESS**

Councilmember Oler, seconded by Councilmember Meyers moved to Read the following two (2) ordinances by title only. Motion Carried 6-0.

**PUBLIC UTILITIES COMMITTEE**

**Terry Senger, Chairman; Tim Meyers, Vice Chairman; Marty Judd, Member**

Ordinance to authorize the City Manager to execute a Memorandum of Understanding with Duke Energy Retail Sales, LLC for a City endorsed reduced electric rate program for Fairfield residents and small businesses and declaring an emergency.

Background: City Manager Pizzano recommended an ordinance to authorize the execution of a Memorandum of Understanding with Duke Energy Retail Sales for a City endorsed reduced electric rate program. Mr. Pizzano commented that Council did have a presentation from a representative from Duke Energy Retail Sales; he is in the audience this evening. Mr. Pizzano commented we are

looking at an 18% reduction for small businesses and residents as a result of this particular action, which is largely a result of the cost to generate energy, principally coal, being down and less demand is on the system as a result of the general state of the economy. He commented Duke Energy is a regulated vendor and are not able to reduce the rate, but Duke Energy Retail Sales is. He further explained this program will run through 2011 and it is an opt-in program. Law Director John Clemmons explained this began when the state legislature changed the law to allow aggregation in which a local government becomes a contracting agent for the residents and negotiates or receives bids from suppliers and locks in the rate for all the local residents. He further explained normally it is an opt-out system meaning you are in unless you opt-out. Mr. Clemmons discussed concerns with aggregation with regards to market changes. He briefly discussed the history of very low response when sending flyers out trying to recruit people to change their electric supplier. He commented on the opportunity for residents to really save some significant money below the regulated Duke rate if they choose to engage in this program. Mr. Clemmons stated the consensus of Staff and in talking with Mr. Smith from Duke Energy Retail Sales, unless we endorse something and do it together, their letter will end up like every other letter probably in the trash can and very few of our people will avail themselves of what is a short time frame to save some money. Mr. Clemmons further commented at the end of 2011, PUCO will be looking at rates again, but in the short term the wholesale market is below Duke's regulated rate. He explained if you have gas heat and electric service when the air conditioner runs the majority of your savings will be in the summer time, so they would like to get this program going. He explained this involves a communication that goes out from Duke Energy Retail Sales and the City of Fairfield as a joint communication that says here is an opportunity we believe to save some money on your electric rates and it offers a choice of either an 18% discount off of Duke's regulated rate or a fixed rate of 6.39 cents. Mr. Clemmons explained the concern is unless it is a name that residents recognize like Duke Energy, most of them are not going to spend the effort to understand who this company is and what it is all about or if may be after the savings is gone. He commented this program runs through 2011 and what is being agreed to is to endorse their program and allow the City's name to be used in a communication to the residents. Mr. Clemmons compared this to the prescription drug program from the National League of Cities, it was an opportunity for our people to save some money we didn't analyze the whole market and decide what the cheapest way for them to buy the drugs or who had the best program we just offered it and made it available. Mayor D'Epifanio stated since this is written for first reading, but it also declares an emergency should we suspend and vote tonight. Mr. Clemmons stated that is up to Council, but the sooner the program starts, the sooner the opportunity to save money will be available. Councilmember Senger, seconded by Councilmember Snyder, moved to read the following ordinance by title only. Motion Carried 6-0. Councilmember Senger presented the first reading of this ordinance. Councilmember Senger also read the synopsis from the Council letter. Mr. Clemmons briefly explained the "Peace of Mind" guarantee that comes with this program, the first being if Duke Energy Retail Sales offers a lower rate to any other community they will offer it to our people also and number two if Duke Energy's regulated rate drops below the Duke Energy Retail Sales rate our people will have the option to switch back to the regulated company without penalty. Mr. Paul Smith, Duke Energy Retail Sales (DERS) explained that this is not an aggregation program it is an opt-in program. Councilmember Snyder asked if details were ironed out. Mr. Clemmons answered yes, the draft of the Letter and Memorandum is in Council's packets. Councilmember Judd asked if the company is part of Duke Energy or a separate entity. Mr. Smith clarified they are a subsidiary of Duke Energy; they are an affiliate or sister company of Duke Energy Ohio, which is the utility that provides gas and electric distribution services. He further clarified they are on the unregulated side; only the unregulated side can discount the electric price, the regulated utility must maintain its rates in this case through December 2011. Councilmember Oler stated some on Council were concerned with the word endorsed and were upset with the presentation by Duke that if it is not endorsed it won't be offered to residents. He stated he supports it as long as the qualification as he sees it is to give another opportunity to choose from what you have available. He further explained by endorsing, they are not saying you should go with Duke forget looking at the others. Councilmember Rhodus discussed the flyers received from other companies offering better deals than Duke is currently offering. He discussed in return for the city endorsement Duke will offer the Fairfield residents the discounted rate of electric, however it is only if we endorse them as the preferred supplier will they offer this to our residents and it is only if the residents sign up for that discount. He further stated we are not offering that to any of the competitors of Duke Energy. He commented if the City is to go into the business of endorsing one business over the other, which he doesn't think we should, then we should allow each of the businesses involved to give them the same opportunity we are offering Duke to come here present to us in the same manner they did last week at a meeting before Council and offer us their rates. Councilmember Rhodus questioned why Duke came to us only after we all received and were bombarded by mailings from their competitor. He stated if they were really concerned about our energy costs they should have been here long before their competitor and they should have offered this great savings to our residents regardless of the endorsement of the City. He commented it is not Duke that he has an issue with, it is the process we are doing it. Councilmember Rhodus encouraged all residents to make the decision on their own and to consider every option out there and hopefully this process saves the citizens money in the end by comparing them all. He stated he does not believe we should be putting a City seal and endorsing any one particular one. He commented on West Chester's recent selection of a competitor. Councilmember Rhodus further commented the prescription plan was not presented to Council, but it was presented to the National League of Cities and they picked the best one in the country and gave it to us. He explained we took advantage of something a national buying entity did and we just offered it, so it really wasn't an accurate comparison because the NLC did all the competitive looking. Councilmember Rhodus encouraged people to go out, check this out and read up on it and encouraged Council to delay the vote and give the competition the opportunity to come in and present the same thing. Mayor D'Epifanio questioned if we have been approached by any of these other

companies. City Manager Pizzano commented no one has approached us to make a presentation. Councilmember Meyers commented this is a choice program and by bringing Duke in it breeds competition. He stated there are already competitors out there by bringing Duke in they are going to bring quality service and it will lower the prices, probably Duke's price as well. He commented he is supportive even though he can't use it because he is with another electric company completely. He further commented he is supportive of it from the standpoint that it is still based on residents' choice and we have done nothing as far as tying the hands of residents. Councilmember Snyder commented West Chester is the reverse of the program we are considering because West Chester actually acted as the purchasing agent so to speak for the entire community and said we on your behalf whether you want it or not are going to buy power from this company and you have to make a conscientious decision to get out of the plan; whereas our program, we are really just presenting an option to our citizens. He stated the reason it is Duke is because we do business with Duke, we are not gaining anything as a city. We are not getting any additional discounts or anything, but by virtue of the fact that we are a major customer of Duke and they are a major provider we are considering getting involved in this program. Councilmember Senger stated we are only scheduled for first reading tonight and based on the number of comments we have had, he stated it is only appropriate that we let this stand for first reading and two weeks from now we will be at second reading and based on the comments at that time we will see if there is an urgency to move it along. Mr. Clemmons clarified the two options are 18% reduction from whatever the Duke rate is or you can lock in the rate at 6.39%. Ray McDaniels, 249 Palm Springs Drive, stated if you lock this in and this is a retail division, Duke Energy comes back and says we got to tack on some money to put the electric through the line. He commented he thinks people of his precinct want a competitive bid. He stated by endorsing you should go and get the other bids from people and bring them in here and have them say what they are going to be, because they are going to charge extra money to send it through the line. Keith Davis, 1853 Vernon Place, stated the sticking point is the fact that part of the condition is the exclusivity; no competitor can do this until this contract ends. He commented this strikes him as an endorsement that excludes competition. Councilmember Meyers commented all they are doing with this endorsement is providing another choice; that if we don't do this residents will not have an opportunity to be able to purchase or think about purchasing this alternative. Mr. Clemmons clarified to analyze all these companies that are eligible to do this it is up in the double figures, all the companies that are on the approved list for the State of Ohio to be in this market and each one offers different bells and whistles. He commented the staff capability of analyzing all those different companies all their different offerings, the capability is not here. He further commented by the time we got it done in any kind of reasonable way, the opportunity to save some money would be gone. He further commented it actually varies house to house for which program is better and we do not want to tell people what is the best deal. Councilmember Meyers commented the variation in how people actually use energy from house to house is dramatic; you can't predict it and you can't model it. He further commented it is up to the individual who makes that choice on what their basic monthly budget is. Councilmember Rhodus stated we are giving them a choice, but we are encouraging them and endorsing one over the others. He commented if we are going to give them a choice we should list the two that have been mailing to our clients. Mr. Davis questioned will we establish a precedent that every business the City does business with will they also be able to come in and make a presentation based along the same lines and say we wish to be made exclusive because of the contract we have with the city and we won't offer this to the public because if you don't give us this endorsement, then we won't do this for the public. He stated the problem is the appearance of an endorsement and are we going to let every vendor avail themselves the same way. Steve Harper, 5513 Crystal Drive, asked why this is necessary, he commented there is obviously an oversupply in energy capacity and anytime there is an oversupply of things people have to discount it and Duke Energy is having a problem with how they can still retain customers, but they don't want to discount. He commented he does not know why we have to endorse it, why you have to put your stamp on it for them to keep their capacity. He further commented we need to be careful about propriety and the appearance of things whether there are any incentives, backroom deals that are implied here because Duke Energy has a history of that. Mr. Harper stated one of the commercial things being offered is good will, these are people who want to pass a rate increase for the storm a couple years ago, and they want to charge customers for that act of God. Mr. Clemmons clarified that the 18% does not apply to the local distribution charge. Mr. Harper stated the electricity went up in his household by 12% in 2009 and 8% the year before, so these people don't have good will. Mr. Harper asked what options are they going to have if they lose customers. He stated he hopes council debates this carefully. Mr. Clemmons stated you must have five to suspend the rules. Ordinance approved for first reading only.

*Councilmember Abbott returned to the meeting at 8:10 PM.*

Councilmember Senger, seconded by Councilmember Oler moved to read the following three (3) ordinances by title only. Motion carried 7-0.

Ordinance to authorize the City Manager to enter into a contract with M Tech for the purchase of CCTV camera equipment for use by the Wastewater Division of the Public Utilities Department.

Background: City Manager Pizzano recommended a contract with M Tech for the purchase of CCTV camera equipment in the Wastewater Division. He commented the current camera is about 14 years old and has been declared non-reparable and parts are not

available for this particular model. He further commented it is being purchased under state bid. Legislative Action: Councilmember Senger presented the first reading of this ordinance. Ordinance approved for first reading only.

Ordinance to authorize the City Manager to enter into a five (5) year contract with Polydyne, Inc. for the purchase of polymers for use in the Wastewater Division.

Background: City Manager Pizzano recommended a contract with Polydyne for the purchase of polymers for use in the Wastewater Division. He explained this is a chemical used for the conditioning of sludge and the disposal and reduces overall our disposal costs of that sludge generated from Wastewater. Legislative Action: Councilmember Senger presented the first reading of the ordinance. Ordinance approved for first reading only.

Ordinance to authorize the City Manger to enter into a one (1) year contract with EPCO Carbon Dioxide Products for the purchase of liquid carbon dioxide for use at the Water Treatment Plant.

Background: City Manager Pizzano recommended a one year contract with EPCO Carbon Dioxide Products for the purchase of liquid carbon dioxide at the Water Plant. Legislative Action: Councilmember Senger presented the first reading of this ordinance. Councilmember Senger stated the rule suspension is requested in order for the contract to take effect when the current contract expires which is this coming month in June. Councilmember Senger, seconded by Councilmember Snyder moved to suspend the rules requiring three readings of the ordinance. Motion carried 7-0. Councilmember Senger, seconded by Councilmember Abbott, moved for adoption. Motion carried 7-0. ORDINANCE NO. 41-10 ADOPTED 7-0.

#### **PUBLIC SAFETY COMMITTEE**

**Mike Oler, Chairman; Marty Judd, Vice Chairman; Mitch Rhodus, Member**

Simple Motion: Motion requesting that *no hearing be held* on the liquor permit application in the name of Fairfield Food Mart LLC DBA Fairfield Food Mart, 5085 Pleasant Avenue (Permit Class: C1).

Councilmember Oler, seconded by Councilmember Judd, moved that *no hearing be held* on the liquor permit application in the name of Fairfield Food Mart LLC DBA Fairfield Food Mart, 5085 Pleasant Avenue (Permit Class: C1). Motion Carried 7-0. SIMPLE MOTION NO. 6-10 APPROVED 7-0.

#### **PUBLIC WORKS COMMITTEE**

**Marty Judd, Chairman; Mike Oler, Vice Chairman; Tim Abbott, Member**

Councilmember Judd, seconded by Councilmember Snyder moved to Read the following two (2) ordinances by title only. Motion Carried 7-0.

Ordinance to authorize the City Manager to enter into a contract with John P. Tumlin and Sons, LTD. for the proposed drywell replacement project.

Background: City Manager Pizzano recommended with John P. Tumlin and Sons for the proposed drywell replacement program. Legislative Action: Councilmember Judd presented the first reading of this ordinance. Councilmember Judd, seconded by Councilmember Senger, moved to suspend the rules requiring three readings of this ordinance. Motion carried 7-0. Councilmember Judd, seconded by Councilmember Abbott, moved to adopt. Motion carried 7-0. ORDINANCE NO. 42-10 ADOPTED 7-0.

Ordinance to authorize the City Manager to enter into a contract with Capital Electric Line Builders, Inc. for video detection at four intersections.

Background: City Manager Pizzano recommended a contract with Capital Electric Line Builders, Inc. for video detection at four of our intersections. He commented it will replace with video our current loop detection systems. Legislative Action: Councilmember Judd presented the first reading of this ordinance. Councilmember Judd, seconded by Councilmember Senger, moved to suspend the rules requiring three readings of this ordinance. Motion Carried 7-0. Councilmember Judd, seconded by Councilmember Senger, moved to adopt. Councilmember Rhodus questioned when these have issues do we have to pay the supplier to go back out to straighten cameras and realign. Public Works Director Dave Butsch stated it is in our maintenance contract with Capital, but that is a service call for them. Mr. Butsch stated once the new system is established they will be able to see pretty much everything from the office and make some adjustments from there. Councilmember Judd clarified that these are simply to monitor traffic and traffic flow,

these are not speed cameras, stoplight nor to capture license plates. Motion Carried 7-0. ORDINANCE NO. 43-10 ADOPTED 7-0.

#### **FINANCE & BUDGET COMMITTEE**

**Tim Abbott, Chairman; Terry Senger, Vice Chairman; Michael Oler, Member**

Councilmember Abbott, seconded by Councilmember Senger moved to read the following four (4) pieces of legislation by title only. Motion Carried 7-0.

Ordinance to authorize the City Manager to enter into a grant agreement with Partners in Prime, in order to provide ARK transportation services to residents in Fairfield and to provide funds for operations.

Background: City Manager Pizzano recommended a grant agreement with Partners in Prime, to continue to provide ARK transportation services. He commented it is a \$35,000 grant. Legislative Action: Councilmember Abbott presented the first reading of this ordinance. Councilmember Abbott, seconded by Councilmember Oler, moved to suspend the rules requiring three readings of the ordinance. Motion carried 7-0. Councilmember Abbott, seconded by Councilmember Oler moved to Adopt. Motion Carried 7-0. ORDINANCE NO. 44-10 ADOPTED 7-0.

Ordinance to authorize the City Manager to enter into a grant agreement with the Fairfield Community Foundation to provide funding to support the Foundation's Scholarship Program.

Background: City Manager Pizzano recommended a grant agreement with the Fairfield Community Foundation to support the Foundation's Scholarship Program and that amount is \$17,500. Legislative Action: Councilmember Abbott presented the first reading of this Ordinance. Councilmember Abbott, seconded by Councilmember Rhodus moved to suspend the rules requiring three readings of this Ordinance. Motion Carried 7-0. Councilmember Abbott, seconded by Councilmember Oler moved to Adopt. Motion Carried 7-0. ORDINANCE 45-10 ADOPTED 7-0.

Appropriation Ordinance (Non-contractual Items) - \$60,000 traffic signal upgrades; \$7,400 materials for manhole casting adjustments; \$20,000 Driveway replacement at Wastewater Treatment Plant; \$16,000 Crestwood Drive Pressure Reducing Valve (PRV) Vault; \$10,600 for parking lot repairs at Fairfield Greens/North Trace Golf Course and Aquatic Center; \$50,000 Engineering services for bridge load ratings (under existing contract); \$25,000 Storm Sewer System Improvement/ NPDES Phase II; and \$9,000 for evidence collection kits and cameras for police vehicles.

Background: City Manager Pizzano recommended the following non-contractual items: \$60,000 for traffic signal upgrades, \$7,400 for manhole casting adjustments; \$20,000 Driveway replacement at Wastewater Treatment Plan; \$16,000 Crestwood Drive pressure reducing valve vault; \$10,600 for parking lot repairs at Fairfield Greens/ North Trace Golf Course and the Aquatic Center; \$50,000 for engineering services for bridge load ratings; \$25,00 storm sewer system improvement/NPDES Phase II and \$9,000 for evidence collection kits and cameras for police vehicles. Legislative Action: Councilmember Abbott presented the first reading of an Ordinance to amend Ordinance No. 149-09 entitled "an Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2010, and ending December 31, 2010". Councilmember Abbott, seconded by Councilmember Rhodus moved to suspend the rules requiring three readings of this ordinance. Motion Carried 7-0. Councilmember Abbott, seconded by Councilmember Senger, moved to Adopt. Motion Carried 7-0. ORDINANCE 46-10 ADOPTED 7-0.

Appropriation Ordinance (Contractual Items) \$113,953 Drywell replacement project; \$77,000 Video detection at four intersections; and \$32,000 CCTV Camera Equipment – Water Division.

Background: City Manager Pizzano recommended the following contractual items: \$113,953 Drywell replacement project; \$77,000 Video detection at four intersections; and \$32,000 CCTV Camera Equipment – Water Division. Legislative Action: Councilmember Abbott presented the first reading of an Ordinance to amend Ordinance No. 149-09 entitled "an Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2010, and ending December 31, 2010". Councilmember Abbott, seconded by Councilmember Judd moved to suspend the rules requiring three readings of this ordinance. Motion Carried 7-0. Councilmember Abbott, seconded by Councilmember Senger moved to Adopt. Motion Carried 7-0. ORDINANCE 47-10 ADOPTED 7-0.

Meeting Schedule

Clerk Johns read the following meeting notices:

May 24 Council-Manager Briefing, 6 p.m.; Regular Meeting, 7 p.m.  
Monday, June 14 Council-Manager Briefing, 6 p.m.; Regular Meeting, 7 p.m.  
Monday, July 12 Council-Manager Briefing, 6 p.m.; Regular Meeting, 7 p.m.

Executive Session of Council (if needed)

Council adjourned to Executive Session at 8:30 PM.

Adjournment

The Regular Meeting of Council ended at 9:30 PM.

ATTEST:

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Clerk of Council

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Mayor's Approval

\_\_\_\_\_  
Date Approved