
Ashland City Council

MINUTES FOR THE REGULAR SESSION OF COUNCIL Tuesday, October 20, 2009

Council President Paul Wertz called the meeting to order at 7:00 p.m.

ROLL CALL

Ward 3:	Ruth Detrow	Present
Ward 4/President	Paul Wertz	Present
At-Large	Stephen L. Stuart	Present
Ward 1:	Robert L. Valentine	Present
Ward 2:	Robert M. Valentine	Present

PLEDGE OF ALLEGIANCE

PRESENTATION OF MINUTES

(a) Regular Session 10/6/09

*Moved by Stephen Stuart and seconded by Robert L. Valentine W1 to approve the minutes as received.
Ayes: Ruth Detrow, Paul Wertz, Stephen L. Stuart, Robert L. Valentine W1, Robert M. Valentine W2.*

No corrections or additions.

LEGISLATION

Ordinances:

Ord. No. # 76-09

Item (a) AN ORDINANCE CREATING ADDITIONAL APPROPRIATIONS FOR THE FOLLOWING HEREINAFTER NAMED FUNDS FOR THE YEAR 2009 AND DECLARING THIS LEGISLATION TO BE AN EMERGENCY MEASURE NECESSARY TO MEET THE FINANCIAL NEEDS OF THE CITY OF ASHLAND, OHIO.

Moved by Ruth Detrow for non-reading in full and seconded by Robert M. Valentine W2 to invoke Section 113.01 of the Codified Ordinances as the distribution of this Ordinance has satisfied the requirements of said Section and that a further reading be dispensed with at this time.

Ayes: Ruth Detrow, Paul Wertz, Stephen L. Stuart, Robert L. Valentine W1, Robert M. Valentine W2.

Larry Paxton: Ladies and gentlemen, this is the Ordinance that is creating additional appropriations for the city's budget for 2009. There is money for the Public Transit Fund. They are receiving an additional transit vehicle this year through the Federal Stimulus program, I believe. We have to appropriate that money; all of it will be paid for through that stimulus program. The city will have no dollars in the purchase of that vehicle. Along with that, the Police Department did apply for a Justice Assistance Grant. It helps them to buy supplies for training and materials. It was in the amount of \$13,999.00 dollars. That is what it will be used for.

Robert L. Valentine W1: Just one question; there was some money from CDBG that went into Public Transit too, wasn't there?

Ellie Grubb: Correct.

Larry Paxton: Yes there was some administration.

Robert L. Valentine W1: What was that? Do you remember?

Ellie Grubb: How much, is that what you're asking? For 2009?

Robert L. Valentine W1: For what we just did.

Ellie Grubb: Are you talking about the \$35,000?

Robert M. Valentine W2: No we are talking about the CDBG money.

Paul Wertz: The Block Grant money.

Ellie Grubb: I am trying to remember. I am working on 2010 right now.

Paul Wertz: 2009. We just passed it a couple of weeks ago.

Larry Paxton: About \$12,000.00 dollars.

Ellie Grubb: You're right, \$12,900.00.

Robert L. Valentine W1: Well first I was thinking that's what this was. I understand. Thank you.

Stephen Stuart: Was it necessary to submit a certificate of estimated resources?

Larry Paxton: Yes sir. We did submit that and received this back from the County Auditors office. Good question.

Questions or comments?

Moved by Stephen Stuart, seconded by Robert L. Valentine W1 that the Ordinance be passed on the first reading.

Ayes: Ruth Detrow, Paul Wertz, Stephen L. Stuart, Robert L. Valentine W1, Robert M. Valentine W2.

Move to suspend the rules, 3 separate meetings, 3 separate nights, by Ruth Detrow, seconded by Robert L. Valentine W1 to invoke Section 113.01 of the Codified Ordinances as the distribution of this Ordinance has satisfied the requirements of said Section and that a further reading be dispensed with at this time.

Ayes: Ruth Detrow, Paul Wertz, Stephen L. Stuart, Robert L. Valentine W1, Robert M. Valentine W2.

Moved by Stephen Stuart, seconded by Robert M. Valentine W2 that the Ordinance be passed.

Ayes: Ruth Detrow, Paul Wertz, Stephen L. Stuart, Robert L. Valentine W1, Robert M. Valentine W2.

Motion carried.

Paul Wertz: We have a Public Hearing at ten after, so we will go to Ward reports now.

WARD REPORTS:

At-Large: Stephen Stuart
No report.

Ward 1: Robert L. Valentine:
No report.

Ward 2: Robert M. Valentine
(a) Yes, I got a call from a gentleman on Mowry Drive and Shane I gave him your number. His name was Bill Driscoll; did he call you?

Shane Kremser, City Engineer: I don't recall that. What was it about?

Robert M. Valentine W2: Water, as in pressure.

Shane Kremser: So it was an issue with water pressure?

Robert M. Valentine W2: Right.

Shane Kremser: I don't recall receiving any.

Robert M. Valentine W2: I gave him your number. He had talked to Cooper last year and then everything happened; and so this year I was talking to him again and I gave him your number and I told him to give you a call and you would be more than happy to talk to him.

Shane Kremser: Okay, Yes. When I get that call, definitely.

Robert M. Valentine W2: I appreciate it, thanks.

Ward 3: Ruth Detrow
(a) I have a couple of things. I heard from an Executive at Park Street Brethren Church concerning the house that was originally a part of the list of houses for that tear down grant and she wanted to assure us and I did tell her that Mr. Valentine is her Councilman. She had been told that I was the Councilman. Apparently she did not get a chance to call him yet. I imagine she will; but they were saying that it is just going to be green space and not a parking lot. And they are hoping to get back on the list. I imagine someone will be talking to them about that then.

Stephen Stuart: As Councilperson at-Large, I received a call from her also this morning.

(b) Ruth Detrow, cont'd: First Presbyterian Church is again going to hand out batteries from smoke alarms. They don't do it in the whole city. They just pick an area and try to do as much good as they possibly can in that area. The only problem is; I am sure they want to do that at the end of the month when time changes because that is the traditional time and I didn't learn that they were going to do it and wanted me to see about a permit until Sunday. So there isn't time to get the permit in time to hand them out at the right time; so I have a dilemma and I am hoping my fellow councilmen will help me with it.

Richard P. Wolfe II: A permit to do what?

Ruth Detrow: A permit to hang things on doorknobs.

Richard P. Wolfe II: Well, if they were just going to pass them out, they wouldn't need a permit.

Ruth Detrow: Right. But they have them; it was done, not last year; last year they did it from the church. But the year before they did it. They had them in a sack and they had a couple other pieces of literature in the sack also. I would assume they are going to do exactly that same thing again.

Richard P. Wolfe II: I would suggest that if Council wanted to consider that as an application for an advertising permit; and then go ahead and act on it, the permit could be filled out tomorrow with the appropriate information. But as long as you have enough information about it, who and what, etc... you can go ahead and act on it. If it is a time issue.

Ruth Detrow: May I make a motion then?

Richard P. Wolfe II: Sure.

Move to approve a permit for First Presbyterian Church for Advertising on private property by Ruth Detrow, seconded by Stephen Stuart.

Ayes: Ruth Detrow, Paul Wertz, Stephen Stuart, Robert L. Valentine W1, Robert M. Valentine 2.

Richard P. Wolfe II: Well, you probably ought to limit it to a one-time thing for distribution of batteries and if they want something else, they can come back another time.

Ruth Detrow: Thank you gentlemen. That is all the report I have.

Ward 4/President: Paul Wertz

(a) No report.

PUBLIC HEARING: Before the Board of Revision of Assessments: regarding a 16-foot wide alley north-south alley, as set forth in Resolution Number 17-09.

Motion to call the Hearing to Order by Paul Wertz. 7:10 p.m.

Richard P. Wolfe II: Is there anyone who wants to be heard in favor of vacating the Alley?

Adrian Bauer, Bauer Realty: I have some questions. First of all, if you vacate the alley, what exactly changes?

Richard P. Wolfe II: Well, when an alley is vacated, what that means is, it is no longer serving a public purpose. It is no longer open for the public. Ownership; there isn't any change of title, but the ownership or the complete interest in the alley reverts to the adjoining property owners, but that doesn't mean that a property owner can put a fence down the middle and block off access necessary ingress or egress for some other adjoining property owners. It is open for purposes of necessary ingress and egress for the adjoining property owners but it is no longer a public thoroughfare and the city no longer has any interest in it other than the reserve interests for any utilities that may be in the alley. In this particular instance, it seems like a practical difficulty because I don't know how you are going to limit it to just use by the adjoining property owners and not still invite any one who happens to want to go through there, to go through there. So there are some practical considerations there but in answer to your question to what happens when the alley is vacated? That is what happens.

Paul Wertz: Basically, the city doesn't do any more maintenance on it.

Adrian Bauer: I guess in looking at it, and I asked if anything is going to change, it is peculiar. And basically the public is going to keep using it. The use of it isn't really going to change at all even though it now is a private thing, it is still peculiar. It is a weird circumstance.

Richard P. Wolfe II: Well, unless the adjoining property owners would agree to block it off at one end, which they usually could do; that would prevent it from being a thoroughfare but because it is open at both ends, it does present some practical difficulties.

Robert M. Valentine W2: If you leave it open, at least you can get back to the garage of that house. You don't want to block it off.

Richard P. Wolfe II: Mr. Bittle is here; Denny, how many parcels do you have on the west side.

Denny Bittle: I have three of them. Three parcels.

Richard P. Wolfe II: So between Mr. Scanlan's property and yours, there are four parcels and there is just the one on the east side; the one house that goes; two parcels but they are connected? One parcel, the house that goes all the way to the back? All right. Well. Do you have any other questions?

Adrian Bauer: Another clarification; because the thing that happened many years ago and I don't even remember where in the city; and it won't happen as long as I own this; but if somebody in the future were to own the property that I own, could they not close that alley for themselves only on the basis that both of the other owners have total access to public right-of-ways without this alley? It seems to me once in the past, we found out that yes they could do that because the other people already had driveways out and they didn't need this.

Richard P. Wolfe II: All right, well that is possible. The answer is yes, that is possible.

Adrian Bauer: That is what I said to him at one point; what if a future owner closes this alley; how would that affect your business? It is a puzzle in my mind.

Richard P. Wolfe II: Property owners on opposite sides of the alley cannot prohibit or inhibit necessary ingress and egress for either of the parties. But if there is no necessary ingress or egress then that changes that situation.

Adrian Bauer: That is where I find a problem, maybe in the future with vacating this alley.

Richard P. Wolfe II: Well you have garage on the east side.

Adrian Bauer: Nobody can ever stop me because that's my only way in and they both have other ways in.

Richard P. Wolfe II: I understand that. Unless you come in from the backside. Unless you come in from the south side. It depends on whether the alley is vacated entirely, in part. There are two ends to it so you could get in one-way or the other. If one was blocked, you could still get in the other way.

Adrian Bauer: Could I block him off though? That is what I am worried about in the future. I am not going to do it. But could a future owner do it? That is the problem I see.

Richard P. Wolfe II: The question becomes one of necessary ingress and egress and it is an issue between the adjoining property owners. So once the city vacates an alley; the city is saying we no longer have any claim to this other than any reserve claims that there may be for utility purposes.

Howard Scanlan: I would like to get back to what you said about property owner moving a fence half-way into the alley. The fence is already there.

Richard P. Wolfe II: Well, there isn't a fence right down the middle of the alley. There is an encroachment on the south end.

Howard Scanlan: The encroachment goes all the way up.

Richard P. Wolfe II: The fence doesn't go all the way up, Howard.

Howard Scanlan: Well, but there is an addition to the house.

Richard P. Wolfe II: I understand that so there is an immovable encroachment on the north end of the alley; there is a moveable encroachment on the south end of the alley.

Howard Scanlan: That is what I am saying, it is already there.

Richard P. Wolfe II: I understand that, but a fence is moveable; a house is not so moveable.

Robert M. Valentine W2: When I went up there, we measured it. It says, a certain 16-foot alley, but that alley is 11 foot 4 inches.

Richard P. Wolfe II: Well, what has happened is that the alley has shifted a little bit.

Robert M. Valentine W2: We as a city had to go there and cut the weeds off of the bank to the house. As far as I am concerned, I don't think we should be in the lawn care business though.

Richard P. Wolfe II: You mean any more than necessary.

Robert M. Valentine W2: Yes, any more than necessary. You're right.

Richard P. Wolfe II: Mr. Scanlan, you have other thoughts you want to speak on?

Howard Scanlan: You know, it is just a nuisance; if you look at section 102 of the Charter, it is the City Council's job to keep that free and clear of obstruction. I have heard who owns and where these alleys are after 100 years; all I can say years ago when I brought it to the city's attention in the Engineers office; and it hasn't been addressed yet. Now we are addressing it.

Robert M. Valentine W2: We addressed it about a year ago.

Howard Scanlan: Well, back in 2000.

Robert M. Valentine W2: What I am talking about, when I was on Council. We addressed it and it got to the Board of Revision of Assessments and they said it shouldn't be closed. But the Board of Revision does not have the final say, we found that out later. That Council has the final say. It is their recommendation only to us. We as a Council decide whether we want to close it.

Mayor Stewart: I would like to address Mr. Scanlan. When this came up some time ago, do I recall that the reason for closing the alley was because of the traffic and the; I don't think that you used the word reckless; but maybe faster traffic going through there then? It wasn't you?

Howard Scanlan: That wasn't me. That was parking. Mr. Bauer himself has parked in that alley since he has purchased it.

Robert M. Valentine W2: I was there with you two hours a while back. There is no traffic in there.

Howard Scanlan: There is no traffic in that alley. There is traffic; a lot of it comes from Mr. Bittle's lot and either goes north or south through the lot.

Mayor Stewart: Who wants it closed?

Howard Scanlan: I would love to see it closed. It has been a nuisance for years. I even put a fence up because people are driving through my yard. That is when my fence went up.

Mayor Stewart: So you want it closed because people are driving in your yard? I am just trying to get.

Howard Scanlan: It is a nuisance. People peddling dope in there.

Mayor Stewart: In that alley?

Howard Scanlan: Yes.

Mayor Stewart: So closing it is going to stop it?

Howard Scanlan: If all the neighbors are together on it, yes.

Mayor Stewart: If all the neighbors are together now Howard it would stop it.

Howard Scanlan: Yes, I agree.

Mayor Stewart: This Council is spending an inordinate amount of time on this section of alley over the years. It is going to remain open even though it is closed.

Howard Scanlan: Not necessarily, that is when the property owners get together and decide what they are going to do. If it is vacated by Council, it is up to the property owners that abut that alley to decide how to maintain it. Including stopping the traffic. Mr. Bauer's tenants would go through Mr. Bittle's parking lot, the north end of it to access that garage, all the time now. Mr. Bittle, I don't know if you had any thoughts on that but, it is a straight shot into the garage.

Mayor Stewart: So the access would be through another private property to access a garage? I'm asking. I think there are some issues here.

Howard Scanlan: Or the south end because that fence could be pushed back where I showed Mr. Bauer where his pin was. There is a driveway right there. I did show you where your pin was that day. There is a driveway already there.

Adrian Bauer: It is true, my fence is in the alley. If there is a problem with that, I can move that fence tomorrow. I didn't know where it was when I bought it. If it is in somebody's way, I will move it.

Robert M. Valentine W2: I believe that it goes all the way up to where that addition was on the house.

Richard P. Wolfe II: No the garage is in between that.

Robert M. Valentine W2: Right but I am just saying it is up the hill a little bit.

Mayor Stewart: It doesn't go all the way up.

Richard P. Wolfe II: It is only about half the length of the alley at most.

Robert M. Valentine W2: We were out there mowing it. Knocking the weeds down.

Howard Scanlan: I am not asking you to do anything; to tear anything down or anything like that. Get rid of all the trouble that has been happening down here through the years. It is just so much of it.

Ruth Detrow: It seems as though the, well I know that the reason for vacating an alley is because it no longer serves a public purpose. It only is of value to the people who live on the alley. Since we discussed it last, which was a year ago or so; I think there are fewer businesses there now, are there not then there were?

Robert M. Valentine W2: Yes, Kadey Insurance moved out. There is nothing in that other half.

Ruth Detrow: It seems as though if there is no public purpose served, it is not really necessary for people who are trying to get somewhere and would have to go way out of their way otherwise.

Howard Scanlan: When the train comes down, there is a lot of traffic.

Ruth Detrow: Well, if we are agreed that no public purpose is served, I would think we would want to vacate it so that we would not have the problem of maintaining it.

Richard P. Wolfe II: I don't know if we can say there is no public purpose because there is a business. Mr. Bittle has a business in half of his building and people do go through that. So that is a question, does it serve a public purpose?

Robert M. Valentine W2: They have ingress and egress in the front and the back.

Mr. Bittle: We don't have any egress on the back because that is behind all of those houses. My current tenant says there are three to four people a day that cut across the back alley. And if you vacate it, it has to be open for Mr. Bauer. There is no way to close the alley that I can see. Mr. Bauer has got to have access in there. It is his garage. He can't swing into that garage without coming over to my property anyhow. It can't be done.

Ruth Detrow: the people who live on the alley usually reach a legal agreement on sharing the upkeep and the use of the alley. They have to go find a lawyer and pay them but they reach a legal agreement and if a house and it is on a vacated alley, well not always, but very, very often they make demands if there is a loan involved, the bank demands that there be an existing document which says who gets to do what and who maintains what and so on and it seems as though you people are agreeable enough that you can reach a good and sensible agreement.

Howard Scanlan: I could. I don't use the alley. The only thing I use the alley for and my property abuts it, is to walk down and weed wack around my fence. That is what I use the alley for. But I see so many people parking on it. I left my list at home. I could give you times, dates, vehicles, plates, photos, video, everything. I was told, yeah those guys, we know them and that's what has been happening over the years. It has curtailed over the years, but I've got the imitative and I just had enough. I've got kids. Enough is enough. I still have people climbing my fence.

Questions or comments?

Bill Strine: Would you clarify who is for it and who is against it?

Richard P. Wolfe II: It sounds like Mr. Scanlan is for vacating and Mr. Bauer and Mr. Bittle are ambivalent.

Adrian Bauer: I only say I am against it for future possibilities. Somebody that owns my house telling him or making him to quit using it. Which I think I have a legal right to do.

Robert M. Valentine W2: Only he can stop them from backing out into his property to get out of their garage. They are going to have to get along.

Motion to close the Public Hearing by Paul Wertz.

Richard P. Wolfe II: The Board of Revision of Assessments will meet sometime and discuss this matter and make a recommendation to Council, probably by the next meeting.

Robert L. Valentine W1: As I understand it, I am not playing games; my understanding, it is a recommendation, correct?

Richard P. Wolfe II: Yes. However, and the problem we had last time is that, the Charter says when the Board of Revision of Assessments recommends that the alley be closed; then the matter is presented to Council. The last time, the Board did not recommend it be closed and that was the end of the matter at that point. So if the Board of Revision of Assessments does not recommend favorably, then I don't think there is anything further Council can do on that.

Howard Scanlan: I think you should bone up on the Charter Sir with no disrespect.

Richard P. Wolfe II: Well, we have around that three or four times.

Robert L. Valentine W1: Well but the last time, in the Board of Revision, one person made the statement that there was all this traffic going back and forth.

Richard P. Wolfe II: Well it didn't make any difference; the vote was 2-1 against recommending that it be vacated.

Paul Wertz: So what you are saying is, whatever that Board of Revision of Assessments final decision is, Council cannot override it?

Richard P. Wolfe II: That's right.

Robert M. Valentine W2: I need that clarified.

Richard P. Wolfe II: We have been over that before. Well it is in there.

OLD BUSINESS: None.

NEW BUSINESS: None.

MAYOR'S COMMENTS:

There is nothing solidified that I can share with Council at this point this evening. There are some things that are moving in a good direction but not at a point that we can talk about. They could still go either way, lets put it that way.

COMMENTS OR QUESTIONS FROM THE AUDIENCE: (Items not appearing on the Agenda)

Motion to move to adjournment of Regular Session by Paul Wertz, moved by Robert M. Valentine W2, seconded by Robert L. Valentine W1.

Ayes: Ruth Detrow, Paul Wertz. Stephen Stuart, Robert L. Valentine W1, Robert M. Valentine W2.

Adjournment at 7:30 p.m.

Submitted by
Valarie Bishoff
Clerk of Council