CITY OF GROVE CITY, OHIO

COUNCIL MINUTES

May 07, 2012 Regular Meeting

The regular meeting of Council was called to order by President Berry at 7:00 p.m. in the Council Chamber, City Hall, 4035 Broadway.

After a moment of silent prayer and the Pledge of Allegiance, roll was called and the following members were present:

Maria Klemack-McGraw *Ted Berry* *Steve Bennett* *Melissa Albright*

1. Ms. Klemack-McGraw moved to dispense with the reading of the minutes from the previous meeting and approve as written; seconded by Mr. Bennett.

Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Albright	Yes

2. Mr. Bennett moved to excuse Mr. Davis; seconded by Ms. Albright.

Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Albright	Yes
Ms. Klemack-McGraw	Yes

3. The Chair read the agenda items and they were approved by unanimous consent.

The Chair recognized Mr. Bennett, Chairman of Finance, for discussion and voting under said Committee.

1. Ordinance C-19-12 (Appropriate $918,756.50 from the Capital Improvement Fund for the Current Expense of the Phase 3 I-71/S.R. 665 Improvements) was given its second reading and public hearing.

   Mr. Turner, Dir. of Finance, explained that we are not spending this money. This allows us to record the final transaction of OPWC funding for the S.R. 665/I-71 interchange project.

   There being no additional questions or comments, Mr. Bennett moved it be approved; seconded by Ms. Klemack-McGraw.

Mr. Bennett	Yes
Ms. Albright	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes

Resolution CR-12-12 (Oppose the State of Ohio Taking Control of Municipal Income Tax Collections) was given its reading and public hearing.

Mr. Allen Honk, local CPA, voiced concern that this resolution might be working against the coalition for municipal income tax reform. He said the Coalition is currently not working to take over collections. He said to pass a resolution that has yet to be proposed seems to be punching at air.

He said if something gets proposed that might save Grove City money, we may look foolish if we have already passed this resolution. He said this Coalition is different than the CPA's proposal from ten years ago.

Mayor Stage stated that there were 16 Mayors and City Administrators that just sent a letter to Joe Testa. He said they are not opposed to the consolidation of forms and the operation of trying to make reporting easier, but there has been enough conversation about the issue of centralized collection that they feel they need to go on record to oppose any idea of attempting to have centralized collection by the state. He said they will stand by that and as the Mayor, he has already gone on record as opposing any thought of centralized collection.

Mr. Bennett stated that when he first began working on this legislation, the proposal being worked on was to consolidate the forms and include centralized collection. He said this Resolution says we don't want the State entertaining the idea of centralized collection for local municipalities. Mr. Houk said he just feels that they should wait until there is a verified proposal with specifics, if there is one to come out.

There being no additional questions or comments, Mr. Bennett moved it be postponed to 7/16/12; seconded by Ms. Albright.

Ms. Albright	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes

The Chair recognized Ms. Klemack-McGraw, in the absence of Mr. Davis, Chairman of Safety, for discussion and voting under said Committee.

1. Ordinance C-20-12 (Amend Section 155.02 of the Codified Ordinances titled Examinations; Preferences; Seniority) was given its second reading and public hearing.

Mr. Bennett asked if the credit was 20 points or 20%, which could be more than 20 points.

Mayor Stage said that the Administration would like to ask Council to reduce the percentage to 10. He then answered that the percentage is based on the passing score.

Mr. Bennett moved to amend the Ordinance to show 10% rather than 20% throughout; seconded by Ms. Albright.

Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Albright	Yes

Mr. Boso, City Administrator, noted that the legislation presented mirrors the Ohio Revised Code and that is where the 20% came from.

Mayor Stage said that with the downsizing of the military, there are going to be a number of individuals that are going to have some skills that may not fit within the cookie-cutter of civilian life. He said we want to give them a little bit of an advantage and leverage their skill level.

Mr. Dick Rutherford, Iris Ct; voiced anger over not giving 20% credit to Veterans. He said this Country has given preference to various people for no reason but color or gender. He said this group have gone over and gotten their tails shot off in a hell-hole, while we sit back here in a nice, comfortable bed and Grove City can't give them preference? Mr. Bennett said they are giving preference to this group. They are going from 0 to 10%. He said he has heard from Veterans that are not in favor of this at all. They feel they don't need any help and should be qualified to do this on their own. Mr. Rutherford said he believes that is wrong and asked that they give the full 20%. Mayor Stage said they think it's best to recognize the service that has been committed by passing the ordinance as amended.

Ms. Karen Dover, resident, said that she saw the legislation and her son is serving in the Marines. She said she actually discussed this with him. She said she understands what Mr. Rutherford is saying but she agrees that the people that have serves don't feel they need the extra help. They want the most qualified people to be in the positions as much as we do. She said she understands the adjustment and those in the military that she spoke to said they appreciate the sentiment, but don't feel they need the extra leg up.

There being no additional questions or comments, Ms. Klemack-McGraw moved it be approved; seconded by Ms. Albright.

Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Albright	Yes
Ms. Klemack-McGraw	Yes

2. Ordinance C-21-12 (Repeal Chapters 705 titled charitable Solicitations and 719 titled Itinerant Vendors and Replace Chapter 720 titled Peddlers) was given its second reading and public hearing.

Mr. Smith, Dir. of Law, noted that these haven't been updated in many years. Additionally the courts have taken a stand and created a new section for canvassers, who cannot be regulated by municipalities. These are people who are spreading their message. He said this still allows us to regulate door-to-door sales but removes those canvassers who are just spreading their message under their first amendment rights. Ultimately, the Courts have said it is the homeowner's responsibility to regulate who knocks on their door. Going forward, he understands the City may have some window clings printed for residents who may want one. The changes proposed are consistent with case law over the last decade and put us in a position to not be sued for any type of violations.

Mr. Berry questioned different types of sales people, such as Time Warner, and asked if they would need a separate license from Grove City. Mr. Smith said if it is purely commercial sales, yes - a peddler's license from Grove City is required. He said where it gets harder, is when a group is spreading a message and then asking for a donation or a membership to their efforts. Mr. Berry asked about the child that wants to shovel snow or mow grass. Mr. Smith said technically, they would also need a permit if they are engaged in commercial enterprises. The laws apply to all. Mr. Berry asked if the permit fee needed to be increased. Mr. Smith said yes. He said the Chief of Police just explained that it costs the City much more to run a background check. He asked that the language be changed to say $20.00 plus all fees associated with a background check. Mr. Berry asked how the wording can be changed so it won't hurt "little Johnny". Mr. Smith said he would need to work on that.

There being no additional questions or comments, Mr. Berry moved it be postponed to 5/21; seconded by Mr. Bennett.

Mr. Bennett	Yes
Ms. Albright	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes

The Chair recognized Ms. Albright, Chairman of Service, for discussion and voting under said Committee.

1. Ordinance C-23-12 (Authorizing the City Administrator to execute necessary conveyance documentation to Grant and Accept a 0.092+ acre Permanent Waterline Easement and declare an emergency) was given its first reading.

Mr. Smith, Dir. of Law, explained that this is a weird one. The waterline currently runs on City property yet, the City of Columbus is requiring an easement for the waterline. This is a safeguard in the chance that Grove City would sell the park property. He said because of the timeline of the White Road project, they are requesting an emergency in order to finalize all aspects of the project.

There being no additional questions or comments, Ms. Albright moved that the Rules of Council be suspended and the Waiting Period waived; seconded by Ms. Klemack-McGraw.

Ms. Albright	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes

Ms. Albright moved it be approved as an emergency measure; seconded by Ms. Klemack-McGraw.

Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Albright	Yes

2. Resolution CR-17-12 (Waive the provisions of Section 903.05(a & c) of the Codified Ordinances for the Annual Alumni Softball Tournament on July 28 & 29, 2012 at Fryer Park) was given its reading and public hearing.

Mr. Ron Johnson, representing the Sertoma Club, explained that Tournament Director Steve Carr requested that they take over the beer sales, since 100% of their funds go to charitable efforts. He explained their experience in distributing alcohol and working this event. They have talked with Mr. Carr and agreed to use the Boy Scouts for trash removal. They will not do food this year.

Mr. Berry asked Chief Robinette for his thoughts. Chief Robinette said they have had conversations with all parties and will run it like last year. Mr. Berry asked Mr. Boso for the administrations position. Mr. Chuck Boso said with the Chiefs comments/recommendations, they are in support, as they have been in years past.

There being no additional questions or comments, Ms. Albright moved it be approved; seconded by Ms. Klemack-McGraw.

Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Albright	Yes
Ms. Klemack-McGraw	Yes

The Chair recognized Ms. Klemack-McGraw, Chairman of Lands & Zoning, for discussion and voting under said Committee.

1. Ordinance C-16-12 (Approve the Rezoning of 3818 - 3822 Glenna Avenue from R-2 to D-1) was given its second reading and public hearing.

Mr. Gary Eisenogle, owner, was present to answer questions. He said they were in the process of selling the existing double and found that the zoning was incorrect.

There being no additional questions or comments, Ms. Klemack-McGraw moved it be approved; seconded by Mr. Bennett.

Mr. Bennett	Yes
Ms. Albright	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes

2. Resolution CR-18-12 (Appeal the Decision of the Board of Zoning Appeals granting a Variance for a Use for CrossFit Gym located at 6250 - 6290 Seeds Road) was given its reading and public hearing.

Ms. Albright stated that due to a conflict of interest, she requests that she be excused from voting and will be recusing herself.

Mr. Smith, Dir. of Law, stated that Ms. Albright asked him for an opinion and because she is in litigation with the property owner, he advised her that she should not participate in this matter.

Ms. Klemack-McGraw moved to excuse Ms. Albright from voting; seconded by Mr. Bennett.

Ms. Albright	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes

Mr. Berry moved to suspend the Rules of Council to allow the four (4) people signed up to speak on this issue to do so; seconded by Mr. Bennett.

Ms. Klemack-McGraw	Yes
Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Albright	Yes

Mr. Kyle Hanigosky and Mr. Tim Pitro, business owners, were present and explained that CrossFit is a strength and conditioning brand used by police, military, professional athletes, etc. He explained that they would have CrossFit training at this gym, one-on-one personal training, group training, classes, and eventually open up "Kid Fit Club". The CrossFit brand likes to use the warehouse setting to provide the raw feeling. He noted that they have six (6) dedicated parking spaces to their unit and 20 undedicated parking spaces for the property.

Michelle Noble, attorney for property owner, said she wanted to explain the unnecessary hardship if the variance is not granted. She explained that the property has been 30% vacant for over the prior year. It is a multi-unit space for industrial space. She believes it is the best space for small business owners like plumbers, flooring, etc. She said with the nature of the economy, there aren't as many small businesses and the owner is having a hard time maintaining tenants. She said the CrossFit affiliate is somewhat different than what they are seeing in the economy. They are using up smaller spaces and are going up in suburbs all over the Country and Columbus.

Ms. Klemack-McGraw asked if they would only have the six parking spaces. Ms. Noble said they have six dedicated parking spaces and the lease will limit them to those, but there are 20 spaces undedicated for the building. She said this unit was picked on purpose because those 20 spaces are behind this unit. No one is objecting and believes parking will be a problem.

Mayor Stage said he was confused and asked how we got here. Ms. Kelly, Clerk of Council, said she received an e-mail from Ms. Klemack-McGraw opposing the variance approval. Ms. Klemack-McGraw stated she appealed on behalf of a constituent who doesn't feel this is proper and comparing it to someone having a business in a residential garage. Mr. Chuck Boso said an application was filed with the BZA and the staff report recommended denial, but the BZA members approved it. Mr. Mike Boso, explained that the tenant applied for an occupancy permit and he denied it due to the improper zoning classification. The Code allows that decision to be appealed to the BZA and the tenant did so.

Mr. Bennett said the issue that is weighing on his shoulders is the issue of opening the door to allow a commercial use into an industrial use. He said there are commercial buildings vacant in town and he had a conversation with the property owner, sharing a scenario of an industrial use using a commercial space for convenience. She agreed that she didn't like that scenario either. He said the Codes are in place to protect the surrounding neighbors and preserve those somewhat outside their view. Ms. Noble said she understands Mr. Bennett's position, but if that is the standard there would never be a use variance granted. She said rezoning isn't an option because it is a multi-unit industrial space. This is only one unit. She said use variances are granted on the circumstances, and the facts and circumstances presented is that this building has been 30% vacant for the past year. Mr. Bennett asked what would happen if this business took off and needed more space. Mr. Hanigosky said they would have to assess their situation and move on. Mr. Bennett said then they could be looking at another use variance at a different warehouse.

Mr. Berry asked if there were vacancies in the proper zoning classification for this business. Mr. Chuck Boso said he was sure there were. He said in terms of the administrative recommendation to the BZA, it was determined that the procedure was improper. He said they believe it should be rezoned. They understand that this is a flex building and it may be rezoned to PUD to accommodate that flexible use. Mr. Berry said that is what he was trying to get at and suggested that the property owner consider a rezoning. He then asked Ms. Kelly to explain the vote on this resolution. Ms. Kelly explained that the resolution is appealing the decision and approving it would repeal the variance. A "no" vote means you want the variance to stay in place.

Ms. Klemack-McGraw stated that a use variance should be very difficult to obtain and it may be seen as undermining the Zoning Code by permitting a use not allowed within the zoning district for this property. Also, in Ohio a use variance is only granted upon the finding that the property owner cannot make any economically viable use of the property under the current zoning and any restrictions. She said she doesn't believe that challenges in attracting tenants is the same as" cannot make any economical viable use".

There being no additional questions or comments, Ms. Klemack-McGraw moved it be approved; seconded by Mr. Berry.

Mr. Berry	Yes
Mr. Bennett	Yes
Ms. Klemack-McGraw	Yes

The Chair asked that any new business to be brought before the attention of Council be done so at this time.

The Chair recognized members of Administration and Council for closing comments.

1. Mayor Stage submitted the Building & Zoning Division report and the March report from Mayor's Court. Mr. Berry moved to accept the Mayor's Report; seconded by Ms. Klemack-McGraw.

Mr. Bennett	Yes
Ms. Albright	Yes
Ms. Klemack-McGraw	Yes
Mr. Berry	Yes

He noted that the State of the City was a couple of weeks ago and had booklets available from that event. He acknowledged the passing of Tiny McComb and expressed condolences to the family; and reported on events throughout the City.

2. President Berry noted that Council has received a letter from the BZA recommending Code changes; a letter from the Chamber asking for Sign Code revisions; and there will be discussion with the Administration about burying the utility lines down Stringtown Road.

3. After additional comments from Council and Administrative staff members, a motion to adjourn was approved by unanimous consent.

Council adjourned at 8:08 p.m.

Tami K. Kelly

Tami K. Kelly, MMC
Clerk of Council

Ted A. Berry

Ted A. Berry
President