

REGULAR CITY COUNCIL MEETING MINUTES
May 12, 2009 - 7:00 P.M.

Mayor Nolan called the City Council meeting to order at 7:00 p.m. and led the pledge to the flag. Clerk Wells called roll. Aldermen present: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. Also present were Treasurer Meseck, City Administrator Nelson, Code Enforcement Officer Brenneka, Community Development Director Santeler, Police Chief Kazy-Garey, Public Works Supt. Kruckenberg, Utilities Supt. Grant, City Attorney Carlos Arévalo and members of the audience.

CARL OPPER/RESIGNTION FROM PLANNING AND ZONING COMMISSION – APPROVED

Moved by Logan, seconded by Perkins to approve Carl Opper’s resignation from the Planning and Zoning Commission with regrets. All ayes. Motion carried.

SWEAR IN NEWLY ELECTED CITY OFFICIALS

The following elected City officials were sworn in by City Attorney Carlos Arévalo:

Jay T. Nolan	Mayor
Andy Wells	City Clerk
Beverly Meseck	City Treasurer
Chuck Marzahl	Ward 1 Alderman
Phil Ulmer	Ward 2 Alderman
Scott Logan	Ward 3 Alderman

Carl Opper, Ward 4 Alderman was sworn in by City Clerk Andy Wells

AUDIENCE PARTICIPATION:

Mike Bannwolf addressed the City Council on behalf of the President of the Milk Day Board with respect to the issue that the City doesn’t want Ayer St. whitewashed for the Milk Day Parade. Mike noted that whitewashing has been a Milk Day tradition for 60 years and that the consistency of whitewash is lime and water which would not harm brick or other surfaces. Mike referred to a meeting with the Harvard Fire Protection District and read a letter from Deputy Chief Alan Styles who offered the fire department’s assistance to the Milk Day Board for use of fire apparatus and manpower to assist with the diluting of the whitewash on Ayer St. Mike requested that Milk Day be on the May 26th City Council agenda and/or to meet with representatives of the Harvard FPD and the Milk Day Board to work out a solution. Mayor Nolan noted there was previous City Council discussion on the matter with a unanimous decision not to whitewash Ayer St. Alderman Ulmer, Chairman of the Streets and Alleys Committee requested that the City Council be polled for their consensus. Mayor Nolan polled the City Council about re-addressing the issue at either the full City Council or committee level: Leyden, no; Marzahl, abstain; Ulmer, we already voted on it; Szczap, no; Logan, yes to the full City Council; Perkins, no; Opper, yes. The consensus was not to readdress the issue. Mike requested to appear and be on the agenda for May 26th. City Council meeting. Mayor Nolan responded that it could be under audience participation.

Scott Summers, 20605 E. Brink St. addressed the City Council to reiterate his comments, questions and objections in the Merryman annexation. Mr. Summers made two process observations and felt it was not meaningful to have a hearing at 6:30 and City Council action a half hour later because it doesn’t provide adequate public participation. Mr. Summers felt it was a procedural problem in that a different City Council heard the issue a half hour ago and a recently sworn in City Council would be voting on the issue.

Elroy Bauman said his concerns were how the proposed gravel pit would affect the Sportsman’s Club Lake. Mayor Nolan responded that he was involved in digging all the lakes out there and that the lake would level itself off. Elroy requested that the berm be kept away from the fence similar to what was done at Wal Mart.

CITY COUNCIL MEETING MINUTES OF 04/28/09 - APPROVED

Moved by Perkins, seconded by Marzahl to approve the minutes of the Regular and Year-End City Council Meetings of April 28, 2009. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

CITY DIRECTORY – APPROVED

Mayor Nolan made note of committee changes and membership changes to the Events Committee adding Bonnie Moller and Jay Schulz and the Planning and Zoning Commission adding Jim Carbonetti. Moved by Logan, seconded by Perkins to approve the City Directory for FY2009/2010 as presented. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye and Opper, aye. Motion approved seven to zero.

PLANNING & ZONING COMMISSION RECOMMENDATION AND FINDING OF FACTS

Hereley/School District #50 Final Plat of Subdivision and Conditional Use – Ord. 2009-112 Approved

Mayor Nolan noted the recommendation and findings of fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission which met on May 12, 2009, for a hearing in the petition of Dan Hereley and Harvard School District #50 to subdivide the property which is the subject matter of their Petition. The Planning and Zoning Commission recommends approval of the petitioner's Final Plat of Harvard School District #50 Subdivision as presented and prepared by Vanderstappen Surveying and Engineering, Inc., and dated February 9, 2009. The Planning and Zoning Commission further recommends approval of the petitioner's request as submitted for a Conditional Use for a school in a R-1A Zoning District, which is the subject matter of their petition.

Moved by Perkins, seconded by Logan to approve the Planning and Zoning Commission's recommendation and Ordinance 2009-112 to approve the Final Plat of Harvard School District #50 Subdivision and a conditional use for a school in a R-1A Zoning District. Mayor Nolan asked for any questions or comments. There were none. Roll call vote: Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye; Opper, aye and Leyden, aye. Ordinance 2009-112 approved six to zero.

Hereley/Preliminary Plan of Century Farm Subdivision - Approved

Mayor Nolan noted the recommendations and findings of fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission which met on May 12, 2009, for a hearing in the petition of Dan Hereley to subdivide the property which is the subject matter of his petition. The Planning and Zoning Commission hereby recommends approval of the petitioner's Preliminary Plat of Countrybrook Subdivision.

Moved by Perkins, seconded by Logan to approve the Planning and Zoning Commission's recommendation. Mayor Nolan asked for any questions or comments. There were none. Roll call vote: Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye and Marzahl, aye. Motion approved seven to zero.

Merryman Annexation, Zoning & Conditional Use for Mining Operations – Ord. 2009-113, 114, 115 Approved

Moved by Logan, seconded by Marzahl to approve Ordinance 2009-113, Authorizing Execution of an Annexation Agreement Between the City of Harvard and Thomas Merryman. Mayor Nolan asked for any questions or comments. There were none. Roll call vote: Szczap, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye and Mayor Nolan, aye. Ordinance 2009-113 approved eight to zero.

Mayor Nolan reviewed the recommendations submitted by Harry Stafford, Chairman of the Planning and Zoning Commission which met on May 12, 2009, for a hearing in the petition of Thomas Merryman to annex the property which is the subject matter of his petition and is approximately 107 acres in size and approximately 1,500' east of the intersection of McGuire Road and Route 14. The Planning and Zoning Commission hereby recommends approval of the Petitioner's request to annex the property to the City of Harvard.

Moved by Perkins, seconded by Marzahl to approve the Planning and Zoning Commission's recommendation and Ordinance 2009-114, Annexing the Thomas Merryman Property Located Near McGuire Road and US Route 14 to the City of Harvard. Mayor Nolan asked for any questions or comments. There were none. Roll call vote: Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye and Mayor Nolan, aye. Ordinance 2009-114 approved eight to zero.

Mayor Nolan reviewed the recommendations and findings of fact submitted by Harry Stafford, Chairman of the Planning and Zoning Commission which met on May 12, 2009, for a hearing in the petition of Thomas Merryman for zoning and a conditional use for a mining operation which are the subject matter of his petition. The Planning and Zoning Commission recommends approval of the petitioner's requests as follows, subject to the conditions as outlined below:

1. To classify newly annexed property with M-1 Zoning for eight (8) years.
2. To obtain a Conditional Use Permit for the property which is the subject matter of his Petition for a mining operation for eight (8) years including extracting gravel, sand and other raw materials; recycling of concrete and asphalt materials; and batch plant operations limited to portable bituminous asphalt and concrete production plant of a temporary nature not to exceed 12 months with a possibility of a 12 month extension being granted by the City Council in its discretion as conditions may warrant.
3. To zone the northeasterly 47 acres of the property B-3 Commercial District upon the expiration of the M-1 Zoning.
4. To zone the remaining 61 acres of the property R-1 Single Family Residence District.

Conditions

- Compliance with the ordinances, annexation agreement and all commitments made by the petitioner with the city.
- Adding a berm and the separation and protection to the western boundary line of the Sportsman's Club property.

Moved by Perkins, seconded by Ulmer to approve the Planning and Zoning Commission's recommendations. Mayor Nolan asked for any questions or comments. There were none. Roll call vote: Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye and Logan, aye. Ordinance 2009-115 approved seven to zero.

JOHN GIANNASI/FRONT STREET TAP PERMIT REQUEST TO ENCROACH ON CITY SIDEWALK/OUTDOOR CONSUMPTION OF LIQUOR ON JUNE 6, 2009 - APPROVED

Mayor Nolan outlined John Giannasi/Front Street Tap's permit request similar to last year for Saturday, June 6th, 2009, to erect a 7' plastic safety fence surrounding the sidewalk area in front of Front Street Tap to allow their patrons to have alcohol outside within this area. No alcohol will be sold outside and no speakers for music will be placed outside. Chief Kazy-Garey noted that Police Department does not have any concerns at this location. There is a permit fee of \$100 and per City ordinance, there is also a \$500 security deposit requirement. Moved by Logan, seconded by Szczap to approve Front Street Tap's request granting a permit to encroach on the sidewalk with the fence erected pursuant to their request and to allow alcohol to be consumed outdoors with a fee of \$100 and a security deposit of \$500. Roll call vote: Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye and Perkins, aye. Motion approved seven to zero.

TWO DAY LIQUOR LICENSE – HERS LEAGUE ON JUNE 27 & 28 – APPROVED

Moved by Perkins, seconded by Ulmer to approve the HERS League request for a two-day liquor license on June 27 & 28, 2009, for their annual HERS picnic. Chief Kazy-Garey noted that Police Department does not have any concerns. Roll call vote: Leyden, aye; Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye and Opper, aye. Motion approved seven to zero.

CONSENT AGENDA:

- VFW Post #8249 Request Buddy Poppy Program, July 2 & 3, 2009

Moved by Perkins, seconded by Opper to approve the Consent Agenda. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

COMMITTEE REPORTS

ALD. ULMER – CALL PUBLIC PROPERTY COMMITTEE MEETING

Chairman Ulmer called a Public Property Committee Meeting on Thursday, May 21st, 2009, at 6:30 p.m. to discuss the sale of public property.

ALD. SZCZAP – CALL ORDINANCE COMMITTEE MEETING

Chairman Szczap called an Ordinance Committee Meeting on Thursday, May 21st, 2009, at 6:30 p.m. to discuss the speed limit on Marengo Road and parking at City Hall to be held immediately after the Public Property Committee meeting.

ALD. LOGAN - BILLS APPROVED

Moved by Logan, seconded by Perkins to approve the bills as presented in the amount of \$100,017.83. Roll call vote: Marzahl, aye; Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye; Opper, aye and Leyden, aye. Motion approved seven to zero.

ALD. PERKINS – ADOPT A HIGHWAY PROGRAM

Alderman Perkins scheduled a highway clean up on Saturday, May 16th at 7 a.m. on Highway 173 from the Public Works garage to Ayer Street with a rain date of Wednesday, May 20th at 4 p.m.

MAYOR’S REPORT

Mayor Nolan reported that the City has been meeting with a few people, but nothing real serious at this point.

ADMINISTRATOR’S REPORT

Administrator Nelson noted that each of the aldermen were given an official copy of the FY09/10 Budget. Administrator Nelson noted some problems with current subdivisions due to the economic times; Dave and Steve have some meetings scheduled this week.

CLERK'S REPORT - UPCOMING MEETING DATES

May 16	Adopt-A-Highway Clean-up, 7 a.m.
May 19	Events Committee, 5 p.m.
May 21	Pubic Property Committee Meeting, 6:30 p.m.
May 21	Ordinance Committee Meeting, 6:30 p.m.
May 26	Regular City Council Meeting, 7 p.m.

DEPARTMENT HEADS REPORTS

Smith Engineering & Dept. Heads: Reports as submitted.

Chief Kazy-Garey updated the City Council on presentations put on by the Police Department:

- May 4th - FBI came out to meet with bank representatives with a presentation on robbery response and went over the alarm policy with banks and financial institutions in town.
- May 7th – addressed student body at Harvard Jr. High regarding the recent bomb threats

NO REPORTS

City Attorney Arévalo, Treasurer Meseck and Aldermen Opper, Marzahl and Leyden had no specific report at this time.

At 7:28 p.m., moved by Logan, seconded by Perkins to go into closed session to discuss Section 2(c)(5) Purchase of Property. Roll call vote: Ulmer, aye; Szczap, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye and Marzahl, aye. Motion approved seven to zero.

At 7:35 p.m., moved by Logan, seconded by Perkins to reconvene the open session. Roll call vote: Szczap, aye; Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye and Ulmer, aye. Motion approved seven to zero.

Moved by Perkins, seconded by Marzahl to proceed with the purchase of property on S. Eastman Street at a cost of \$9,500. Roll call vote: Logan, aye; Perkins, aye; Opper, aye; Leyden, aye; Marzahl, aye; Ulmer, aye and Szczap, aye. Motion approved seven to zero.

At 7:40 p.m., moved by Perkins, seconded by Opper to adjourn the meeting. Aldermen voting aye: Leyden, Marzahl, Ulmer, Szczap, Logan, Perkins and Opper. All ayes. Motion carried.

Submitted by:

Andy Wells,
City Clerk

Date