

RECORD OF PROCEEDINGS

MEETING OF COUNCIL

January 10, 2011

Mayor Goudy called the January 10, 2011 City of Union council meeting to order on Monday at 7:30 p.m.

Attendance was taken and the following council members were present: Mr. Bruns, Mrs. Oberer, Mrs. Kyle, Mayor Goudy, Mr. O'Callaghan, Mr. Blackwell, and Mrs. Perkins.

Other city staff members present were John Applegate, City Manager, Denise Winemiller, Clerk of Council, Joe Moore, Law Director, and Mike Blackwell, Public Safety Director.

Mayor Goudy called for a moment of silence.

1. Mayor Goudy asked if there were any additions or corrections to the council minutes from the December 13, 2010 meeting. There were no comments from the council members so Mr. Bruns moved that the council minutes be accepted as prepared. Mr. O'Callaghan seconded the motion. Mayor Goudy abstained and the other council members voted in favor of the motion. The minutes were accepted as prepared.

2. Citizens' and Visitors' Comments

Ms. Bernice Pressel from 208 Butler Trail was attending the meeting and had questions concerning tickets for parking on the street during a snow emergency.

Mrs. Pressel said she received two parking violations from November 24 and called to get clarification on the snow emergency policy and asked how the snow emergency had been declared.

She said there was more snow on December 4 and December 12 and she did not receive a violation on those days even though her cars were parked in the same spot. She said she would appreciate some consistency with the policies and procedures. She said she was not aware that they were having a snow emergency on December 16.

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After receiving the tickets, she had talked to several people in the police department and was told to contact the City Manager. She said she had not been able to reach Mr. Applegate and had left several messages on his voice mail.

Ms. Pressel said she had been reluctant to park the cars on her new concrete driveway because when they did that last year it had cracked in two places. She presented pictures of the driveway and said she had received a permit from the City of Union and had the driveway inspected. She said that the concrete was put on top of an old asphalt driveway, not a gravel base and it had not been compacted.

She said she was supposed to keep the cars off of the driveway for six to eight weeks so she asked where she could park her cars. She said she understood she could park them on the grass and she asked if that was true. She asked that the violation fee be excused and voided as a courtesy.

Mayor Goudy referred the matter to Mr. Applegate and he looked at the pictures she had provided of the driveway.

Mr. Applegate asked several questions regarding the driveway, such as if there was a drainage problem, if she had a contract, and what the sub base was. He also asked if the contractor had replaced the cracked driveway and he had. Ms. Pressel said she had brought up the problems with the driveway to explain why she had left her vehicles on the street. She said the contractor had told her to keep off the drive for six to eight weeks. Mr. Applegate said it was usually 28 days for concrete and the replacement driveway had been inspected on September 15 so it had been over sixty days since the concrete driveway had been completed. He said he saw this as two separate issues, the driveway and the snow tickets. He offered to look at her contract and talk to the contractor and the city's building inspector. He said in looking at the pictures provided of the driveway, he could not tell what the problem had been and why it had cracked.

Mr. Applegate said he was sorry he had not returned her phone calls but he had not been able to catch up to his voice mails.

In response to her questions about the second notice on the snow ordinance violations and the late fee and towing, Mr. Applegate said nothing would happen until he had made his final decision regarding the snow ordinance tickets.

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Mr. Applegate went over the snow ordinance regulations with Ms. Pressel saying that he would actually measure the snow and personally check the conditions and then determine if there was a snow emergency. He said weather forecasts are not always reliable and conditions can vary a great deal from area to area. Snow ordinance information is in the welcome book, on the web site, and in newsletters.

Mayor Goudy said Ms. Pressel had also asked if she could park on foreclosed properties. Mr. Moore said that would be a risk for her because the properties, even though foreclosed, are owned by someone else. Mr. Applegate said if she had permission.

Mr. Blackwell asked if the two inches was still an appropriate number to declare a snow emergency or if they would need to reevaluate it. Mr. Applegate said he thought that two inches was the right number. He said that the reason that they instituted the snow emergency legislation was so that they could get a fire truck and emergency vehicles to properties. He said without having the cars moved, the streets were too narrow to plow and still get vehicles through. Mr. Applegate thought that the two inches has worked well for the community.

3. Appointment of Carolyn Bruns to Park Board for the term of January 2011 to December 14, 2014.

Mr. O'Callaghan moved to reappoint Carolyn Bruns to the Park Board for a new term. The motion was seconded by Mrs. Perkins. All concurred and the motion passed.

4. Appointment of Helen Oberer to Personnel Advisory Appeals Board for the term of January 2011 to December 2013.

Mr. Bruns moved that Mr. Oberer be reappointed to the position on the Personnel Advisory Appeals Board. Mr. Blackwell seconded the motion. All concurred and the motion was passed.

Mr. Bruns said per the Union charter, there was no conflict for a member of council to serve on that board.

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5. Appointment of representative and alternate to the Miami Valley Regional Planning Commission and to the Miami Valley Regional Planning Commission Technical Advisory Committee.

Mayor Goudy moved to appoint Mr. Bruns as the representative to the Miami Valley Regional Planning Commission and the Miami Valley Regional Planning Commission Technical Advisory Committee. Mr. Blackwell seconded the motion. All concurred and the motion passed.

Mr. Bruns then moved to appoint Mr. Applegate as an alternate to both of the committees. Mrs. Oberer seconded the motion. All concurred and Mr. Applegate was appointed as an alternate to the Miami Valley Regional Planning Commission and the Technical Advisory Committee.

6. **ONE READING** – ORDINANCE 1509 - AN ORDINANCE OF THE CITY OF UNION, OHIO, APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF THE CITY OF UNION AND TO AMEND OR ENACT SECTIONS OF THE TRAFFIC, GENERAL OFFENSES, BUILDING AND FIRE PREVENTION CODES TO CONFORM TO ENACTMENTS OF THE GENERAL ASSEMBLY AND DECLARING AN EMERGENCY.

Mr. Applegate said this is an annual housekeeping ordinances dealing with all of the ordinances passed by the city and changes passed by the General Assembly at the state level. This needs to be adopted as an emergency so everything is in the code book and in effect.

Mr. Bruns moved that Ordinance 1509 be declared an emergency for the reasons set forth in the ordinance. Mrs. Oberer seconded the motion. All concurred and the motion was adopted.

Mr. Bruns then moved to have the one and only reading and adopt emergency ordinance 1509. Mrs. Oberer seconded the motion. All concurred and emergency ordinance 1509 was adopted on the first reading.

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7. FIRST READING – ORDINANCE 1510 - AN ORDINANCE ESTABLISHING AND IMPLEMENTING A PROGRAM TO RECOVER SERVICE FEES FOR THE DEPLOYMENT OF PUBLIC SAFETY SERVICES RENDERED BY THE CITY OF UNION POLICE AND FIRE DEPARTMENTS, FOR MOTOR VEHICLE CRASHES, HAZMAT, PUBLIC UTILITY RESPONSE AND STRUCTURE FIRES. THESE SERVICES ARE BEYOND CORE GOVERNMENTAL SERVICES AND ARE OUTSIDE THE PRIMARY FUNCTION AND SCOPE OF BASIC CRIMINAL PROTECTION, INVESTIGATION AND FIRE SURPRESSION. (three readings)

Mr. Applegate said that Mike Blackwell, Public Safety Director was present to answer any questions.

Mr. Applegate said that the Chief has brought this forward and this is something that other communities have started doing. Mr. Applegate said similar to the EMS billing, as costs continue to rise and to maintain their high quality of services, they need to look at sources of revenue.

Many people that have had car accidents in town are people that are driving through town and do not live in Union. People that provide and pay for those services are City of Union residents.

Chief Blackwell added that collecting fees would cover the costs of providing what federal and state governments are requiring departments to do as far as technology, records, management, training, etc. and those costs are increasing each year. As far as traffic accidents, the person at fault will be held responsible for wear and tear on the police cruiser, gasoline, and all the time involved in writing a crash report, which is very extensive now. As far as the fire department, it would include the tools that the city uses which are very expensive.

Most insurance companies will pay for these charges and if not, they will directly bill the person that is responsible. A company will be contracted to do the billing and it will be at state and federal mandated costs, just like Medicare and Medicaid sanctions affect how they do their EMS billing.

There is a cost in the time and materials that the city uses. The city does not make up the costs.

Butler Township and Vandalia are already doing this and Englewood is looking at it.

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Chief Blackwell said from what he had seen it was a cost of two to three hundred dollars for a basic traffic crash.

Chief Blackwell said they would also be billing utility companies when a power line is down because they are using Union police officers until the utility company can get someone there. He thought that billing the utility companies would encourage them to get a crew out to fix the line more quickly instead of the city blocking the road for hours, waiting for the utility crews.

Mrs. Perkins said this made sense from a budgeting perspective but she mentioned she had concerns about it. She said that with EMS services, it directly impacts the person involved but with securing an area on a public street, it does not benefit the people in the accident but everyone that is using the road. She asked if they would start charging for homes with a burglary, or going out on a vicious dog call and where they would draw the line. Chief Blackwell said there are laws against that. The city would not be allowed to bill for some things. Chief Blackwell said what they were talking about is legal and has been accepted throughout the country. He said billing for going out for a burglary or a loose dog would probably never be legal. That is beyond the core governmental services. Mrs. Perkins asked if the core governmental services were defined in the city's ordinances. Mr. Applegate said no, it's just what the laws are. He said like the ordinance that was just adopted, adding all the updates of laws recently passed to the city's codified ordinances. Mr. Applegate added that as long as the state passes it, the city has to go by that; general offences, traffic laws, and everything else.

Mr. Applegate said the city is putting out a lot of effort, like going out for a gas smell, or responding to an alarm and nothing is there. There is a lot of time involved and they need to respond to more and more calls. Mr. Applegate said they do not want to increase millage. Mr. Bruns said rather than billing the entire community for a few people's problems, they would be billing the person responsible. Chief Blackwell said he would not want to be billed for every car crash and he would not want his neighbor responsible for that. He would like the person responsible to be billed for the crash.

Mrs. Perkins said she understood the cost factor but their service was to protect the entire community, not just the people in the crash.

Mr. Bruns commented that when fire crews responded to repeated false alarms the city did charge for that and Mr. Applegate said that was correct.

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Mr. Bruns said that they were not sure where the dividing line was for what would be billed or not. He said he was in favor of getting the city's money. Mr. Applegate said every situation is different. If there is a loose dog, the individual can be fined and pay court costs and the city gets a portion of that fine. Chief Blackwell said there is a set of guidelines that the company will use on what to bill. There are four different stages to a fire call, depending on what equipment is used. If they go out and there is no problem and no equipment is used, there would probably not be a charge.

The company has the criteria and will look over what is submitted. Mr. Applegate said, for instance, a fire hydrant was hit and they submitted a bill for all the work involved. Mr. Applegate said as city manager, he will be overseeing the situation to make sure they are getting an adequate return on their expenses. He said the council should decide if they want to do this or not. He said that at some point, since the amount collected in the levies does not change, eventually the funds would not cover all of the services that they provide. The city then has to decide how they want to raise money. Mr. Applegate said he felt that this was less of a burden to the community. In looking at car accidents, they were generally caused by people driving through town, not Union residents. Mr. Applegate said they were looking for ways to generate money and wanting to get out ahead of expenses. He said that by enacting the billing for EMS services, they were able to provide better services and that was being appreciated and acknowledged by residents.

In response to a question from Mrs. Perkins, Chief Blackwell said they had seventy-six traffic accidents last year.

Mr. Applegate asked Chief Blackwell if they could provide the council with a list of the criteria that they would bill for. Chief Blackwell asked if they would like the representative from the company to come and talk to the council and then she could answer any other questions they would have. Several people on the council said they would be interested in that.

They discussed tabling the ordinance but Mr. Applegate said he would like to keep this legislation moving and it does require three readings.

Mayor Goudy asked about the fees the company would charge. They charge a small percentage like two to three percent. Mr. Applegate said they had met with the company last fall. Mr. Applegate said they were looking at all possible sources of revenue.

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Mrs. Perkins said she certainly commended Mr. Applegate for being proactive on that.

She asked Mr. Moore what would be the legal test of negligent driving, as mentioned in section II of the ordinance. Mr. Moore said negligence was a “lapse of due care”. People are presumed to drive with ordinary care and if there is a lapse in due or ordinary care that creates the concept of negligence, and that is what puts the person at fault.

Mrs. Perkins said she would prefer to hear the speaker before voting. Mayor Goudy asked if others felt that way or if they could go forward with the first reading. Chief Blackwell said he would call the representative the next morning.

Mr. Bruns said if they would pass it on the first reading, they could stop it on the second reading.

Mayor Goudy said she felt it would not hurt to pass it through the first reading. Mrs. Perkins said that if the representative had not come to the meetings before the third reading, she would like it tabled then.

Mr. Bruns moved to have the first reading of Ordinance 1510. Mayor Goudy seconded the motion. All concurred and Ordinance 1510 was passed to the second reading.

8. **ONE READING** – RESOLUTION 11-01 - A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE LAW OFFICE OF THE MONTGOMERY COUNTY PUBLIC DEFENDER TO PROVIDE LEGAL SERVICES FOR INDIGENT PERSONS CHARGED WITH JAILABLE OFFENSES UNDER THE CITY’S LOCAL ORDINANCES.

Mr. Applegate said this is another normal housekeeping resolution. The city does this every year and contracts with Montgomery County to provide legal services for indigent persons cited under city codes. They have been passing this resolution since 1972.

Mr. O’Callaghan moved to have the one and only reading and adopt Resolution 11-01. Mr. Bruns seconded the motion. All concurred and Resolution 11-01 was adopted.

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9. Open Agenda

Mayor Goudy had a letter from the Chief of Police of Huber Heights, commending one of Union's police officers, Joe Dues, on how he efficiently tracked down the owner of the police chief's lost property and was able to return it. He wrote a letter commending the city on their quality of police service in Union.

Mrs. Perkins asked about work on Sheets. Mr. Applegate said it was a water main break – the first one this year.

Mr. Blackwell said he had some information concerning the fire department on how much time, tools, and expenses etc. are put towards scenes of accidents. There is a free course for elected officials that covers what the fire department does with their tools and equipment if anyone is interested. It is a six hour course on a Saturday in May.

Mr. O'Callaghan wished everyone a happy new year and he asked if they were going to talk about the schedule of council meetings for 2011. Mr. Applegate said they would need to have a second meeting in January. Mr. O'Callaghan asked if they were going to try to keep it on a month to month basis. Mr. Applegate said they had not come up with a good way to notify the public. They can keep it updated on the web site and if the meeting is covered by the newspaper, they can mention that then, and Mr. Applegate said they could possibly put a sign on the council door. He said they would need some of the second meetings because they had some rezoning issues and would need to have some public hearings.

Mrs. Kyle wished everyone a happy new year and she said the city had done a beautiful job keeping the roads clean.

Mrs. Kyle said that she had heard some comments that people didn't like the lights on the trees this year. They preferred white. Mr. Applegate said they could not quite afford the cost but next year they would all be one color. Mrs. Kyle said she still thought they looked beautiful.

Mrs. Oberer said she knew that every Northmont bus driver appreciated Union's clean roads.

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Mr. Bruns asked how many snow emergencies the city had so far this year. Mr. Applegate said so far, just one. Mr. Bruns said he thought that someone had said there had been two snow emergencies.

Mr. Bruns wanted to thank the city or the city manager for keeping the lights on through the first week of January. He said he appreciated that.

Mr. Applegate said they had put out several articles but the one that caught his attention was the one on home ownership from the Dayton Daily News. Springboro was number one at 88.6 percent, Oakwood was second at 87.6, Mason was third at 87.4, and Union was fourth at 87.2. Mr. Applegate said that says a lot about their community.

Mr. Applegate said they were ready to plow snow, and keep the cars off the street or the vehicles will be towed. Mr. Applegate said they were having good compliance and it was one of the best things the city had done. Mr. Applegate said if people have lived in town, they should know how the city operates. He said the city crews need to be as efficient as they can when they are removing snow.

Mr. Moore, referring to Resolution 11-01, said that “not jailable offenses” are traffic fines and the person would not be entitled to a public defender. This resolution is only used if it is a jailable offense, and the person cannot afford a lawyer.

10. Mayor Goudy moved that the January 10, 2011 council meeting be adjourned. Mr. O’Callaghan seconded the motion. All concurred and the council meeting was adjourned.

Respectfully submitted,

Denise A. Winemiller,
Clerk of Council

Michael O’Callaghan, Vice Mayor