

MINUTES OF PERRYSBURG CITY COUNCIL

MEETING HELD JULY 10, 2018

Mayor Mackin called the meeting to order at 6:30 p.m. Present were Council Members Deborah Born, Haraz N. Ghanbari, Jim Matuszak, Tim McCarthy, Jonathan Smith, Barry VanHoozen, and Becky Williams (7). Also present were Bridgette Kabat, City Administrator, Karlene Henderson, Law Director, and David Creps, Clerk of Council.

Mr. Matuszak moved to approve the minutes of the June 19, 2018 meeting as written and to dispense with their reading. Mr. Ghanbari seconded. Ayes: (7). Nays: (0).

SPECIAL REPORTS

None.

LETTERS, COMMUNICATIONS, AND CITIZENS' CONCERNS

Jon Orser, 125 E. Front Street, asked when City Council would be discussing the recommendations from the Charter Review Commission. Mr. Matuszak said he will address that during his report.

ADMINISTRATIVE REPORTS

Mayor's Report

Mayor Mackin stated that he will not be able to attend the July 31, 2018 City Council meeting. He thanked everyone who participated in the process of choosing the Prosecutor.

City Administrator's Report

Ms. Kabat reported that the Administration continues to work on the water issue with our neighbors and regional partners.

Finance Director's Report

Mr. Creps reported that City Council received an appeal of an Historic Landmarks Commission decision regarding the property at 120 West Second Street.

Law Director's Report

Ms. Henderson said that she is recommending that Chynna Fifer be appointed to fill the position of Prosecutor. Mayor Mackin said that he agrees with the recommendation. Ms. Williams moved to appoint Chynna Fifer as Prosecutor. Seconded by Mr. McCarthy. Ms. Born questioned why a defense attorney would be chosen to be Prosecutor. Mayor Mackin said that Ms. Fifer also worked for the Lucas County Prosecutor's Office for 2 ½ years. Mr. Matuszak read a prepared statement, a copy of which is attached hereto and made a part of these minutes. Ms. Williams said that City Council asked the Administration to have a process and they did. She said that she was involved with the first round of interviews, and she thinks it was a thoughtful process and all those involved agreed to move forward with three candidates. Mr. McCarthy said that City Council's role is limited and the

Law Director and Mayor have recommended a qualified candidate. He thinks she is very capable and will serve the City well. Mr. Smith said that he reached out to citizens and those in the legal community and he has not heard enough concerns to change his original vote. Mr. Smith asked about Rule 7 in Section 220.05 that requires certain management employees to be interviewed by the Committee of the Whole. Ms. Henderson said that the City has traditionally considered the Meet and Greet to fulfill this requirement. Mr. Ghanbari said that he is disappointed with the lack of leadership and transparency from the Mayor, and he questioned the legitimacy of the hiring process for the Prosecutor's position. Mr. VanHoozen said that he spoke to seventeen individuals about this appointment and politics was used in every conversation, whether they were for or against the candidate. He said that he is disappointed with some of the comments that have been made by fellow Council members, and he will be supporting the candidate.

Ayes: McCarthy, Smith, VanHoozen, and Williams (4). Nays: Born, Ghanbari, and Matuszak (3).

President of Council Report

Mr. Matuszak said that he plans to meet with Aram Ohanian, Chairman of the Charter Review Commission. A Committee of the Whole meeting was scheduled for Monday, July 23, 2018 at 6:00 p.m. to discuss the proposed changes to the charter. Elizabeth Ravas, Charter Review Commission member said that the Commission acted in a non-partisan manner. Mayor Mackin stated that the Commission was thoughtful and prepared.

COMMITTEE REPORTS

Finance and Economic Development Committee:

No report.

Next meeting: Tuesday, August 14, 2018 at 5:30 p.m.

Service Committee:

No report.

Next meeting: Wednesday, July 25, 2018 at 5:00 p.m.

Safety Committee:

Mr. Ghanbari gave his report of the June 26, 2018 meeting, a copy of which is attached hereto and made a part of these minutes. Mr. Ghanbari also reported that he met with a representative of CSX regarding the safety aspect of railroad crossings in the City.

Next meeting: Tuesday, July 24, 2018 at 6:00 p.m.

Mr. Ghanbari introduced **ORDINANCE 82-2018 AUTHORIZING AN AGREEMENT WITH PFUND SUPERIOR SALES INC. IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$155,000.00) FOR A LIFE LINE MEDIC BODY** and moved that the rules be suspended to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. McCarthy. Ayes: (7). Nays: (0). The Clerk read Ordinance 82-2018 by number and title only. Mr. Ghanbari moved

that Ordinance 82-2018 be approved. Seconded by Mr. McCarthy. Ayes: (7). Nays: (0).

Mr. Ghanbari introduced **ORDINANCE 83-2018 AUTHORIZING AN AGREEMENT WITH WHITEFORD KENWORTH IN AN AMOUNT NOT TO EXCEED EIGHTY-EIGHT THOUSAND DOLLARS (\$88,000.00) FOR A KENWORTH CAB AND CHASSIS** and moved that the rules be suspended to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. McCarthy. Ayes: (7). Nays: (0). The Clerk read Ordinance 83-2018 by number and title only. Mr. Ghanbari moved that Ordinance 83-2018 be approved. Seconded by Mr. McCarthy. Ayes: (7). Nays: (0).

Recreation Committee:

No report.

Next meeting: Wednesday, July 25, 2018 at 6:30 p.m.

Planning and Zoning Committee:

No report.

Next meeting: Wednesday, July 11, 2018 at 5:30 p.m.

Personnel Committee:

No report.

Next meeting: Tuesday, July 24, 2018 at 5:00 p.m.

Ms. Williams introduced **ORDINANCE 84-2018 AMENDING CODE SECTION 266.15-2 TO INCLUDE JOB DESCRIPTION FOR POLICE LIEUTENANT AND AMENDING VARIOUS WAGE RANGES AND DECLARING AN EMERGENCY** and moved that the rules be suspended to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. McCarthy. Ayes: (7). Nays: (0). The Clerk read Ordinance 84-2018 by number and title only. Ms. Williams moved that Ordinance 84-2018 be approved as an emergency. Seconded by Mr. McCarthy. Ayes: (7). Nays: (0).

Public Utilities Committee:

Mr. Smith gave his report of the June 27, 2018 meeting, a copy of which is attached hereto and made a part of these minutes. Ms. Kabat said that with regards to the Army Corps of Engineers, she sent an email to Mr. Wetzel and has not heard back. Mayor Mackin said that on August 10 the Administration is going to Fulton County to observe the aquifer. Mr. Ghanbari asked if there is an update on the other study. Ms. Kabat said that she and Ms. Godsey will be meeting with representatives from Maumee and the Northwest Water and Sewer District the following day and they are in the RFQ process.

Next meeting: Wednesday, July 25, 2018 at 6:00 p.m.

Mr. Smith moved to grant a sewer credit in the amount of \$1,109.32 to Lori Reffert, 720 Streamview Drive. Seconded by Mr. VanHoozen. Ayes: (7). Nays: (0).

Mr. Smith introduced **ORDINANCE 85-2018 AUTHORIZING AN AGREEMENT WITH ARTESIAN OF PIONEER, INC. FOR STAGE ONE EXPLORATION OF A POTENTIAL GROUND WATER SUPPLY SOURCE FOR THE CITY OF PERRYSBURG AND DECLARING AN EMERGENCY** and moved that the rules be suspended to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Ms. Williams. Ayes: (7). Nays: (0). The Clerk read Ordinance 85-2018 by number and title only. Mr. Smith moved that Ordinance 85-2018 be approved as an emergency. Seconded by Ms. Williams. Ms. Born said that the City of Toledo is, and continues to be, the best source of water and the other sources being discussed are not viable. Mr. Ghanbari asked what other communities are participating in the study. Ms. Kabat said Liberty Center, Sylvania, Whitehouse, Fulton County, Henry County, Maumee, and the Northwest Water and Sewer District have either approved or are considering it. She added that the more communities that participate will lower our share because each community's share will be equal. Ayes: Ghanbari, Matuszak, McCarthy, Smith, VanHoozen, and Williams (6). Nays: Born (1).

Mr. Smith introduced **ORDINANCE 86-2018 AUTHORIZING THE CITY ADMINISTRATOR TO SEEK BIDS FOR CONSTRUCTION OF THE PINE STREET AND MULBERRY STREET WATER MAIN REPLACEMENT PROJECT AND DECLARING AN EMERGENCY** and moved that the rules be suspended to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Ms. Williams. Ayes: (7). Nays: (0). The Clerk read Ordinance 86-2018 by number and title only. Mr. Smith moved that Ordinance 86-2018 be approved as an emergency. Seconded by Ms. Williams. Ayes: Ghanbari, Matuszak, McCarthy, Smith, VanHoozen, and Williams (6). Nays: Born (1).

Mr. Smith introduced **RESOLUTION 16-2018 AUTHORIZING THE CITY ADMINISTRATOR TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR ENGINEERING DESIGN SERVICES FOR HICKORY, LOOMIS, ORCHARD, COLONY WATER MAIN REPLACEMENT PROJECT** and moved that the rules be suspended to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Ms. Williams. Ayes: (7). Nays: (0). The Clerk read Resolution 16-2018 by number and title only. Mr. Smith moved that Resolution 16-2018 be approved. Seconded by Ms. Williams. Mr. Ghanbari suggested that since this project affects hydrant flow that it should be passed as an emergency. Mr. Ghanbari moved that Resolution 16-2018 be approved as an emergency. Seconded by Mr. Smith. Ayes: (7). Nays: (0).

Mr. Smith introduced **RESOLUTION 17-2018 AUTHORIZING THE CITY ADMINISTRATOR TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL ARCHITECTURAL DESIGN SERVICES FOR RENOVATING EXISTING SPACE AT THE DEPARTMENT OF PUBLIC UTILITIES ADMINISTRATION BUILDING LOCATED AT 211 EAST BOUNDARY** and moved that the rules be suspended to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Ms. Williams. Ayes: (7). Nays: (0). The Clerk read Resolution 17-2018 by number and title only. Mr. Smith moved that Resolution 17-2018 be approved. Seconded by Ms. Williams. Ayes: (7). Nays: (0).

OTHER BUSINESS

None.

ADJOURNMENT

Mr. Smith moved to adjourn the meeting at 8:03 p.m. Seconded by Mr. McCarthy.
Ayes: (7). Nays: (0).

David D. Creps, Clerk

Thomas G. Mackin, Mayor

To: All Concerned
From: James P. Matuszak, Perrysburg City Council President
Subject: City Prosecutor
Date: July 10, 2018

It's not often that I come to a city council meeting with a prepared statement. However, after my meetings yesterday regarding the matter before us here tonight, namely, the appointment of a city prosecutor, I'm compelled to do so.

I am an elected official and, therefore, I am accountable to everyone that depends on me to represent them in whatever capacity my position requires of me. In this particular matter, all of us council members are accountable to and are responsible for doing the right thing not just for the people of Perrysburg, but also for all of those that fall within the jurisdiction of the Perrysburg Municipal Court.

City council was first apprised by the administration of the need to replace our retiring city prosecutor on Friday, January 26, 2018 via an e-mail from Ms. Henderson. Here we are on Tuesday, July 10, 2018. If you're asking yourselves, what the hell has been going on, that's a damn good question. Tonight is probably going to frustrate you even more because you're likely going to be leaving here tonight having been given conflicting answers to that very important question from some of us sitting up here tonight. Unfortunately, that means for those of you that are seeking the truth, you are going to have to discern for yourselves which of us is more believable. I ask that you please listen to each of us carefully, noting the capacity in which each of us sit before you, continually asking yourselves what it is that motivates the individual speaking to say what they have to say. Essentially, all you have to do to do that is to cut through the clutter presented to you here tonight, some of which has been designed to distract you from the reality of the situation and to create a perception that supports the individual's decision. Do you recognize relativism when you see it and when you hear it? Have you bought into it? Will you buy into it? It will be on display tonight.

It would take more time than we have here tonight to share with everyone all of the documents and information that exist regarding the selection of a new city prosecutor. So rather than do that, I will share with you those things that I think will shed the most light on the matter, helping you to discern the believability of those sitting among you and before you tonight.

I do this knowing that as a council member I have been accused of being divisive, and I won't sit here and tell you that what I have to say won't be divisive. Seeking and proclaiming the truth has been divisive since the fall of man. But to sit here silently, failing to do so allows other louder voices to impose their versions of the truth and, consequently, their versions of reality (a product of relativism). It's when truth is denied or ignored, that it's most important that people hear it. I cannot and will not be inactive or silent just to avoid criticism.

When council lawfully voted on Tuesday, February 6, 2018 to withhold its approval and consent for the appointment of Ms. Fifer, a newspaper pointed out that council's vote to withhold consent was politically motivated. It went on to report the obvious, that councilmen Ghanbari, Vanhoozen and Matuszak were all republicans and, therefore, couldn't approve of Ms. Fifer. The paper failed, however, to report to you that Councilman Smith, who voted in favor of Ms. Fifer at the time, was also a republican. Most importantly, it failed to report the political party to which the retiring prosecutor, the law director, the mayor, Ms. Fifer and councilman McCarthy belong to - all proponents of Ms. Fifer. Why do you suppose that was? Furthermore, why do you suppose that if you take the stand in a court room proceeding, you are asked to swear to tell the truth, *the whole truth* and nothing but the truth? I'll leave it to the lawyers in the room to lecture you on that.

During that February 6, 2018 council meeting, after the failed attempt to secure council's approval and consent for the appointment of Ms. Fifer, Councilman McCarthy reminded the full council that a motion to reconsider could be made. Remember, he was not on the prevailing side of the vote. Ms. Henderson, subsequently and, admittedly at the direction of the mayor, attempted to privately persuade councilwoman Born to make a motion to reconsider the vote and to change her vote so that Ms. Henderson's and Mayor Mackin's nomination of Ms. Fifer would be approved by a majority of council. It should be noted that the motion would have to have been made by a council member that had been on the prevailing side of the vote to withhold council's approval and consent, which Ms. Born was. Ms. Henderson did so in an open public forum, in a manner such that no one else would have known what she was up to (other than the other members of the administration at the dais at the time) had I not immediately questioned Ms. Born about the situation. Ms. Henderson's method lacked the transparency of Councilman McCarthy's (a much more seasoned attorney). Nonetheless, the administration's attempt was unsuccessful. It's all on video tape. When I later expressed my concern to Administrator Kabat about the underhanded approach to manipulate Ms. Born, Ms. Kabat, like the good soldier that she tries to be, said that that happens all of the time in Lucas County. Folks, this is Wood County! Hopefully, Ms. Kabat doesn't reduce this to her word against mine.

At the end of the day, Perrysburg found itself without a legitimate prosecutor. Why is that? Our retiring prosecutor had been with us for quite a long time. Some would argue, too long. His age wasn't a secret. His performance, or lack thereof, seemingly was. The administration, specifically the law director, the administrator and the mayor's office had not, in my opinion, properly planned for his succession. That's simply my opinion, but here we are. Hind sight is 20-20.

So what did the administration do? It installed Ms. Fifer as the acting prosecutor anyway. The most troubling aspect of this is, again in my opinion, that those charged with understanding the law, Ms. Henderson and those expected to have at least a working knowledge of the law, Mr. Mackin, chose to ignore the law. And perhaps most noteworthy to some of you here tonight as we consider Ms. Fifer for prosecutor, she accepted the role. Now, they are all lawyers, so don't be surprised if they claim that they are the experts, impliedly on all aspects of the law, and you should bow to their judgments. Don't forget to ask yourself what motivated each of them to

make the decisions they made. Setting relativism aside, ask yourselves if they did the right thing.

As councilman Smith previously pointed out after the February 6, 2018 vote of council (remember, he previously voted in favor of appointing Ms. Fifer), Section 242.06 of the codified ordinances of the city states the municipal court prosecutor shall be appointed by and subject to removal at any time by the director of law, in each instance, however, subject to the approval and consent of the mayor and a majority of the members of council. Please let me know if anyone would like me to provide them with a copy of Section 242.06, AKA "the law."

I will suggest again today, and I'm admittedly not a lawyer, that I suspect the law was written as it is (with council having the final say) to encourage the administration to work with city council to reach decisions on the matter before us today. For those of you that aren't lawyers, that's ok. They don't hold the franchise on reading comprehension.

On the topic of lawyers, and more broadly, law enforcement in general, has anyone ever really stopped to consider why it is that Perrysburg and the rest of Northern Wood County are such great places to live, work and visit? Again that's simply my opinion that it is, but if you live, work or visit us, I hope it's because you (or perhaps your employer) appreciate us for who and what we are. Have you ever wondered why it is that Lucas County law enforcement officers choose to live in Perrysburg or other parts of Northern Wood County? Have you ever wondered why Mr. Mackin is employed by Lucas County but chooses to live in Perrysburg? Hell, even councilmen Ghanbari and Smith work in Lucas County but live in Perrysburg. At the risk of speaking for these people, I'll speculate that it's because they want what they think is best for themselves and the ones they love; the same as you and I. So what is it that makes Perrysburg and the rest of Northern Wood County such a great place to live, work and visit?

...among other things, law and order. Perrysburg and the rest of Northern Wood County are great places to live, work and visit because we have law and order. People feel safe here. Since people feel safe here, we continue to grow. People want what is best for themselves and the ones they love. When our residential population grows, the city prospers economically; businesses want to locate where the people are - their customers. Again, that's just my opinion. But if I'm right, is it going to help the cause if our mayor, our law director and a new prosecutor ignore the law when it is not a viable means to the end they are pursuing? Be careful not to let me blur the facts with my opinions. My opponents or someone on their behalf will take care of doing that.

To wrap things up here, please understand that I've only shared some of the more significant aspects of this selection process with you. My opponents will undoubtedly disagree. Don't be surprised if they or someone on their behalf attack the messenger as well as the message.

When they attempt to explain to you that council initially raised concerns regarding the process with which they initially nominated Ms. Fifer in February, they will continue to explain to you how they further expanded the process, at council's request, by posting the job position and accepting applications from the public. Ask yourselves, why did we have to make such an obvious request. Ask yourselves, was the expansion of the selection process all simply academic? Ask yourselves, what was their best alternative to a negotiated agreement with

council? If you can answer the last question confidently, then you're well on your way to identifying what motivated them.

Assess the reliability and the validity of the administration's newfound, claimed due process by weighing what you think is believable and consistent with not only procedural due processes but also and more importantly, with substantive due processes. In other words, has the administration simply expanded the procedural process to make it appear as though they have done what has been asked of them, or have they really taken the task to heart and genuinely recognized the substance of the additional information that was acquired in the newfound, expanded new process? They will tell you all of the remaining three candidates were qualified. Translated that means they all met the minimum threshold requirements. Imagine yourself in court as a victim knowing that at least the prosecutor met the minimum requirements.

I've posed a lot of questions tonight. Rather than tell you what you should believe, I've asked you to ask yourselves the questions that I think will help you seek out the truth for yourselves. If you want to seek the truth in private to avoid criticism, that's your call. If you discover the truth and want to speak up, more power to you. I won't insult your intelligence by claiming to be smarter than you, unless of course my advice comes across that way. I hope not.

To be clear and for the record, Ms. Henderson nominated Ms. Fifer to be city prosecutor, which was consistent with the final interview committee's recommendation. The final interview committee was comprised of Ms. Henderson, Ms. Kabat, Ms. Chalfant, Mayor Mackin and myself. Neither Ms. Henderson nor Ms. Chalfant had any questions for any of the three remaining candidates.

Ms. Kabat voted in favor of Ms. Fifer, as did Ms. Chalfant and Mayor Mackin. I voted not to recommend Ms. Fifer. Mayor Mackin subsequently approved and consented to his own recommendation. Please note that Ms. Henderson advised me yesterday, as the lawyer for the City of Perrysburg, to remain silent tonight as to my reasons for not voting to recommend Ms. Fifer. Should the person making the nomination, which is clearly a controversial matter, be advising anyone as to what they should or should not say, regarding her decision, even if the advice would be considered good advice coming from another source?

Ms. Henderson, you have agreed with the comments of others on at least two occasions in my presence, commenting yourself that what you were agreeing with was "the Toledo way." My fellow council members, ladies and gentlemen, this is Wood County, not Toledo, not Lucas County. If we back down tonight and allow this type of activity, this Toledo mentality, to take further hold, it won't be long before it becomes open season for Lucas County politics in Perrysburg, Ohio and the rest of Northern Wood County. This is home!

Some food for thought folks, do you think there are as many people involved in Wood County politics trying to escape to Lucas County as there are people involved in Lucas County politics trying to escape to other jurisdictions? If you take the time to find an answer to that question, ask yourselves, why is that?

Mayor Mackin, your first significant and most immediate task as our new mayor has been to fill the vacated position of city prosecutor. I gave you ample, written warning prior to our

February 6, 2018 council meeting that I didn't think nominating Ms. Fifer in the manner indicated in the January 26, 2018 e-mail from Ms. Henderson would be a good start for you as our new mayor. You obviously didn't take my advice. I was simply trying to keep what has happened from happening.

Here we sit again today. You've at least gone through some motions now. I again, prior to today, have given you what I don't think you think is even worth two cents of advice. Nobody has asked you to take away the sins of the world. I've only asked you to do the right thing, at the right time, for the right reason.

May the peace of Christ be with us all.