

## COUNCIL MINUTES

March 6, 2017

St. Clairsville City Council met in Council Chambers on Monday, March 6, 2017, with the following present:

Jim Weisgerber, Council President  
Mark Bukmir, Council 3<sup>rd</sup> Ward  
Linda Jordan, Council-At-Large  
Jake Olsavsky, Council, 1<sup>st</sup> Ward  
Frank Sabatino, Council 2<sup>nd</sup> Ward  
Mike Smith, Council-At-Large  
John Tomlan, Council 4<sup>th</sup> Ward

Terry Pugh, Mayor  
Jim Zucal, Service Director  
Jeff Henry, Police Chief  
Richard Myser, Law Director  
Cindi Henry, Finance Director  
Tom Murphy, Planning & Zoning Administrator  
Shelley Fortney, Utility Office Manager

The meeting was called to order by Council President Jim Weisgerber.

### MINUTES

Minutes of the February 21, 2017 regular meeting were distributed to Council. A motion to accept the minutes was made by John Tomlan with the change made concerning the permit process and seconded by Linda Jordan.

#### Roll Call Vote

Bukmir	Yes	Sabatino	Yes
Jordan	Yes	Smith	Yes
Olsavsky	Yes	Tomlan	Yes
Roll Call Vote:	Six (6) Yes	Zero (0) No	Motion Approved

### CITIZENS HEARING:

#### Carol Jones (For Cindi Yanez)

I am representing Cindi Yanez who is in Washington, D.C. today. She is a resident of St. Clairsville and the Rescue/Adoption Coordinator at the Harrison County Dog Pound. She is the co-founder of the Harrison County Dog Pound Volunteers that works to improve the lives of the dogs housed at the pound. The State of Ohio repealed breed specific legislation over 5 years ago. Accordingly, many municipalities in the state have followed suit, appealing any local ordinances they had enacted the legislation, the most recent being the city of Cleveland. There are provisions in the Ohio Revised Code pertaining to vicious dogs in Section 955 that are sufficient according to the State of Ohio. Enacting and enforcing BSL or breed discrimination legislation BDL, is not only expensive and complex but is often done in haste without proper thought as to what is involved or the consequences of doing so. While BSL and BDL are unnecessary and unfair to the animals affected, it is also unfair and burdensome to the taxpayers of the city who may find themselves paying for and operating their own animal control services. Has the City of St. Clairsville considered how they would enforce such an ordinance? Enforcement requires trained personnel, a suitable shelter, equipment (including a vehicle), and supplies. It also requires a great deal of funding. Where will the shelter be? How many employees would be needed to enforce an ordinance 24/7? What provisions have been made for humane euthanasia? Where is the money going to come from to pay for this? Additionally, what will the administrative and appeal process be for this? Has it been drafted? Does it specifically provide provisions to ensure the rights of owners of any and ALL companion animals affected by this proposed ordinance? While animal control services are provided by the County by way of services provided by the County Dog Warden operating from a county owned facility, the County is NOT required to enforce a BSL/BDL ordinance within any municipality. In fact, the County would no longer be required to

provide ANY animal control services to any municipality with its own animal control ordinances, including the handling of dog bites, strays and dogs running at large. However, if the County would agree to the added and unnecessary liability of enforcing a St. Clairsville ordinance and the dog warden responds to calls in St. Clairsville, it would mean the tax payers of other municipalities in the County would be paying for a county employee to enforce laws in a city within that county that has its own laws. I don't think the residents of Barnesville or Powhatan Point or Bethesda would be happy about their tax dollars going towards something only St. Clairsville has ordered. The State has removed all provisions regarding the scope of the duties of the County dog warden to enforce BSL. The enforcement of BSL/BDL also includes identification of a specific breed as being vicious. The enactment of that ordinance by St. Clairsville becomes the sole duty and responsibility of St. Clairsville. That poses a serious issue and raises questions where enforcing the law is concerned. Prior to 2012, it was the duty of the dog warden to identify a Pitbull and there was specific language that essentially said a Pitbull was any dog a dog warden said was a Pitbull. That language is no longer there. Clearly the dog warden is no longer responsible for identifying a dog a particular municipality believes is a Pitbull. If the State no longer defines one, how will the city define one? The fact that there is no purebred Pitbull makes this even more complex. The former law included language that helped identify a Pitbull as specifically being a mix of 2 breeds. Identification is nearly impossible without DNA testing. I respectfully request that the City of St. Clairsville suspend actions directed towards this highly discriminatory legislation, while respecting the existing laws of the State of Ohio concerning vicious dogs for the following.

1. Jeopardizes existing animal control services presently provided by others;
2. Poses an undue financial burden upon the residents of the City and/or the County;
3. Conflicts with sound fiscal responsibility
4. Potentially exposes the City and or County to unnecessary liability
5. Is unfair to the animals that are the subject of ordinances, as well as their owners

**Jason Cook, Tremble County, Animal Advocate**

I am so passionate about this that I drove down here to give you five minutes of my experience and expertise to this particular topic. I advocate for animals across the entire State of Ohio. I speak not only at the local level but also at the State level and talk about dog laws that are being considered and already in place. One of the things I am passionate about is breed discriminatory legislation and when I saw the article that Council was considering such an ordinance I felt it was my duty to come down and speak to you on behalf of the dogs that I represent and so passionately fight for every day. You have the tools in place to keep your community safe. Ohio Revised Code 955 affords you many opportunities for designating dogs as dangerous and vicious. You have local ordinances, a leash law that you can put in place. A lot of communities adopt tethering ordinances to address issues of dogs that are being tethered and break loose and cause bites. I understand that you had two unfortunate incidences but why punish the responsible owners of St. Clairsville for the actions of two irresponsible owners when you have the powers to enforce the laws that you already have in place. When I talk to the communities I understand that they want to keep the community safe and I understand that they think this is going to help the community but it is not. You are targeting one specific type of dog. Even that one type of dog, I can't even tell you what a Bull Terrier is anymore. I have ten Pitbull Terriers of my own. I look at five of them and I don't even see them as Pitbull Terriers but that is how they are defined by the shelter and the dog warden. I see a lot of problems on how you are going to identify this. I didn't see anything about are you going to seize the animals, where are you going to hold these animals. Where is the due process for the owners of these seized animals? Will there be a hearing? I think you need to take a step back and say why don't we look at the laws that we have in place, talk with

our County dog warden, meet with your local Humane Society. Make sure that the laws you have in place are being enforced. Take a step back further and say what we can do to protect the community from all types of dogs. This is a mistake, I have already spoken to residents here, and they showed me pictures of them with their dogs. For you to say that these dogs are vicious is wrong. It prevents people from adopting dogs. We have shelters that are full of Pitbulls that are not going to be coming to St. Clairsville and possibly be euthanized when there are plenty of good owners here that would love to adopt these dogs but they don't want to carry the stigma of having a vicious dog. They don't want to have \$3000,000 of liability insurance. They don't want to walk a dog on a three foot leash when a six foot leash is more than sufficient to control a dog. I understand that was one of the incidences that the owner could not control the dog. I really think this is not the way to go and I really think you should focus on the ordinances you have in place and if you are going to put something in place have it cover across the board all types of dogs. I don't live in St. Clairsville but I love these animals so much that I will go anywhere in the State of Ohio to talk about them and break the stereotype and break the stigma. There is a reason why the State of Ohio in 2012 removed Pitbull Terroirs from being vicious because they are not. I respectfully ask Council to disregard this proposed legislation and meet with your County Dog Warden, talk with your Humane Society, and talk with your Constituents. We have a petition that was signed by over 1,400 people. I am not sure if they all are from St. Clairsville but they don't want this legislation. They want something in place to protect them from all types of dogs. I want to allow people who are actually from this community to speak.

**Jennifer Woollard, Executive Director, Belmont County Animal Rescue League**

I would like to take a moment to thank the City Council members and the Mayor for allowing me an opportunity to speak regarding the proposed ordinance in regards to vicious dogs. BCARL is the oldest animal welfare organization serving Belmont County, established in 1974. The Board of Directors respectfully urge you to reconsider the ordinance which would institute breed discrimination legislation in St. Clairsville. Part of our mission statement is to provide humane education and we have been actively working to dispel beliefs regarding pit bulls and similar breeds that have been deemed vicious. In late 2015, BCARL hosted a two-day event here in St. Clairsville entitled Pitbull 101 with the goal of educating the public about this breed, which is often misunderstood, and others. Attendees learned that vicious behavior is not inherent to a specific breed. Breed discrimination legislation is directly counter to this line of thinking.

The National Canine Research Council has identified the most common factors found in fatal dog attacks:

- **97 percent of fatal dog attacks involve dogs that were not spayed or neutered.** We will continue to aggressively promote this spay neuter assistance program to make low-cost sterilization services widely available to Belmont County residents.
- **84 percent of fatal dog attacks involved owners who were neglectful, failed to contain their dogs, or failed to properly chin their dogs.** We recommend enforcement of the current ordinance.
- **78 percent of fatal dog attacks included dogs that were not kept as pets but as guard, breeding, or yard dogs.** Our recommendation is breed neutral legislation and enforcement of the ordinance already in place in St. Clairsville stressing responsible ownership.

BCARL urges you to properly enforce current laws which are more successful in preventing these incidents. Enforcing the laws already in place would be much more effective in combatting dog attacks rather than blaming and placing restrictions on a particular breed and its responsible owners. As an animal welfare organization, it also is our fear that this legislation will cause a

dramatic increase in the number of these breeds of dogs in the Belmont County animal Shelter and others located nearby. We further envision adoption of this type of dog becoming more difficult due to this proposed ordinance. Likewise, we fear that some animals will not even make it to shelters, but could be abandoned or harmed as a result of the ordinance.

Perhaps the Ohio Valley Dog Owners Organization said it best. "Dog control problems are PEOPLE problems, and are not dog problems".

**John, Joyce & Jeana Paglialunga:**

**John:** I am a resident of St. Clairsville and I want you to know what loving dogs they are. There are a few people on Council who met my dog a few years ago. I used to take him to the nursing home to see my mother twice a week. When my mother passed away, I continued taking him. Some of the residents had different names for him, it was their dog. One lady used to have treats for him. She loved that dog. There was a man 35 years old with a bad kidney. He loved my dog. One day I went in to see him and he was out of it. His mother and sister were there. They said he had been like that for a couple of days. I said Timmy I brought Mario in to see you. He opened his eyes and he passed away that evening. He loved that dog. Pits are great dogs. Pits have great muscles but their greatest muscle is their heart. They love their owners. If you treat them right they treat you good. It is the people that make them mean. I know you are not banning the dog but you are putting an insurance on us. **Joyce:** The pictures that we passed out are pictures of our Pit at the nursing home. I just wanted to say the Junk Yard German Shepherd and the German Shepherd Guide Dog are the same breed. They are not the same dog because they have owners with different intentions. Pit-Bulls are the same way. If you treat them right, teach them love and they give love. Dog control problems are people problems and are not limited to a breed or mix. Banning a breed or declaring it inherently vicious punishes those responsible dog owners, they type of citizens the community needs to keep not drive away. Communities that have instituted such bans often find that the irresponsible owners and criminals that use dogs for illegal purposes just simply switch to another breed. Banning a breed or a particular mix of breeds punishes these dogs that are reliable community citizens such as therapy dogs, assistance dogs for handicapped owners, search and rescue dogs, drug sniffing dogs, police dogs, etc. and drive them out of the community.

There is really no breed called a Pit-Bull. Passage of laws that are only enforced on complaint cause disrespect for the law. Authorities' enforce compliance only on complaints and cause neighborhood feuds. Pit bulls were used in Victorian days as a Nany Dog. Two attacks in a town does not make hundreds of dogs bad. **Jeana:** I am not actually a St. Clairsville resident any more but I do own a business here. I see where you want to ban the dogs, you want do vicious breeds. I would like to ask how you are going to enforce this, how you are going to pay for this. A County in Maryland has done breed specific legislation on Pit Bulls. \$68,000 to prove that one dog is a Pitbull and to have it removed from the home and the euthanasia of that dog. They are spending up to a half a million dollars a year to enforce their legislation on just one breed of dog. What is going to happen you are going to have responsible owners with Pit Bulls who hide their dogs. It is going to create new problems that were not there before when they have to get insurance on their dogs that they can't afford. They can afford the veterinary care for their dog but now you are adding an extra cost. You are going to drive out visitors. Maybe they come for dog shows and want to stay within the city limits. Maybe they are thinking about moving here and that is the breed they have. You are going to hurt our community as a whole.

**Jim Weisgerber:** I respect your opinions and I thank you for attending. If you want to stay for the rest of the meeting that would be wonderful, if not you are welcome to leave as we go on with the rest of our meeting.

**REPORTS:**

**Service Director: Jim Zucal**

Soon I will be meeting with the Building and Grounds Committee. I have received a quote for demolishing the front portion of the old Street Garage on Station Street off Route 9. The wooden structure we are considering keeping if we can. So I will be moving forward with that.

I want to encourage Council and appreciate their support on the Legion Road slip repair ordinance. I know that came before you rather quickly. That was because we did receive our quotes which were very cost savings in the amount of \$115,148. We did have the engineers' recommendation so Mr. Myser was so gracious in preparing the ordinance. I would like to move forward in a timely fashion to wisely use that grant money.

I would like to thank Council for the approval and passage of Ordinance No. 2017-10 on the right of way cuts. After that meeting on Tuesday evening the very next day we had a question, a contractor on the Commons Mall Crossing his intention was to cut the street. That was stopped and they did bring in a boring company the next day. It is a very worthy ordinance. I appreciate the support and I think it is going to be very useful in the future.

**Mayor: Terry Pugh**

I was at a County meeting last week. There were Township Trustees there and they ask me how do you keep the city looking so good and get people to cut their grass and clean up garbage. I said it is because of Tom Murphy's efforts as the Planning & Zoning Administrator and the fact that he will send out letters. If that doesn't work Mr. Myser will send out letters that will bring them into court. I will say we send a lot of letters but I am yet to have a person come into my court. It is because a lot of people care but we do take the steps to enforce it.

**Police Report for February**

Calls and Complaints	177
Special Teams Call Outs	1
Accidents	11
Arrests	21
Parking Tickets Issued	77
Traffic Stops	73
Miles put on Cruisers	6,242
Gasoline Used	669.4 gallons

**Police Chief, Jeff Henry:** No Report

**Finance Director, Cindi Henry:** No Report

**Planning & Zoning, Tom Murphy:**

The Board of Zoning Appeals met on March 1<sup>st</sup>. Before the Board was request for an office for a home occupation at 251 East Main Street. The Board did approve that request as it did meet the requirements of the Home Occupation ordinance.

You have Ordinance No. 2017-12 this is the first reading and there is no emergency language on it. What that Ordinance will do is establish a land reutilization program. What that program allows the city to do is to take ownership of properties that are tax delinquent. We can demolish the building and sell the property. The money we get from the sale can help pay for the demolition. In St. Clairsville we are really blessed. There were only two properties, only one now. Both have been vacant for some time. It improves the neighborhoods, it is a proactive approach.

Jim mentioned the right of way ordinance that was adopted. Not only one road but two roads were addressed. On Newell Avenue, Columbia Gas had planned to cut Newell Avenue which everyone knows is a pretty well-traveled road and we did talk to them and tell them they had to bore under the road. So it has been successful already.

### **COUNCIL COMMITTEES**

**Finance, Mike Smith:** No Report

**Utilities, Frank Sabatino:**

Committee met this evening.

Shelley Fortney: We discussed several issues for consideration

Had a citizen approach the committee about an issue and it was resolved. A couple of issues from Shelley's office were discussed. Discussed the utility rate hike.

**Police, Mark Bukmir:** No Report

**Street North Side, Jake Olsavsky:** No Report

**Street South Side, Linda Jordan:** No Report

**Safety, Beth Oprisch:** Not Present

**Building & Grounds, Mark Bukmir:** No Report

**Planning Commission, Mike Smith:** No Report

**Fire District, Frank Sabatino:**

Fire Board met in regular session on the 20<sup>th</sup> of February. Discussed vehicles, capital improvement and personnel. A special meeting will be held to discuss personnel and the next regular meeting will be held March 29<sup>th</sup> at 3:00 p.m.

**Recreation, Linda Jordan:**

In the concession area the cabinets are in. The cabinets and counter tops were donated by Tim's Custom Instillation. Ice machine, counter tops, etc. will be installed soon. They discussed something called pickle ball. March 8<sup>th</sup> is a charity game for the benefit of Dom Alexander a second grader recently diagnosed with cancer. This originally started out as the grand opening for roller hockey. March 15 is the opening for roller hockey with area mascots, giveaways, music & snacks.

**Park District, Linda Jordan:**

We need to replace our representative on the Park Board because of a resignation.

### **ORDINANCES & RESOLUTIONS**

**Law Director, Richard Myser**

We have six ordinances to go over tonight.

The first Ordinance we have is up for its third reading is Ordinance No. 2017-06. It is Ordinance approving an agreement among the Columbus-Franklin County Finance Authority, the City of St. Clairsville, Senior Suites at St. Clair Commons and the Huntington National Bank.

The next one is to be read on its second reading, Ordinance No. 2017-07. It is an Ordinance enacting codified section 505.15 relating to vicious dogs.

The next Ordinance to be read on its second reading is 2017-08, it is to adjust the water rates.

Ordinance No. 2017-09 also on its second reading is to adjust the sewer rates.

Ordinance No. 2017-10 is to establish right-of-way work permit within the City

An ordinance to be read for the first time is Ordinance No. 2017-11. Determining the lowest and best bid for the Legion Road slip repair.

Also to be read for the first time is Ordinance No. 2017-12. Authorizing the adoption of a land reutilization program.

There was presented and read to Council on its third and final reading by title only, ORDINANCE NO. 2017-06; AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT AMONG THE COLUMBUS-FRANKLIN COUNTY FINANCE AUTHORITY, THE CITY OF ST. CLAIRSVILLE, SENIOR SUITES AT ST. CLAIR COMMONS, LLC AND THE HUNTINGTON NATIONAL BANK AS TRUSTEE. A motion was made by Linda Jordan and seconded by Jake Olsavsky that Ordinance No. 2017-06 be passed by Council.

Roll Call Vote

Bukmir	Yes	Sabatino	Yes
Jordan	Yes	Smith	Yes
Olsavsky	Yes	Tomlan	Yes
Roll Call Vote:	Six (6) Yes	Zero (0) No	Motion Approved

Ordinance No. 2017-06 was declared adopted.

There was presented and read to Council on its second reading by title only, ORDINANCE NO. 2017-07; AN ORDINANCE ENACTING CODIFIED SECTION 505.15 RELATING TO VICIOUS DOGS. **Terry Pugh:** The reason we addressed this ordinance and named a Pitbull was because of my experience. In Mayor's Court I had two problems come before me. One individual was bit by a dog that was not controlled. A second one a dog that ran free through an underground fence to do a lot of damage to another dog. I have never had any other breed come before me but pitbulls. I have read a lot of studies about that breed. I feel that our job is to protect our citizens especially the children in the city. National insurance companies will not insure your home if you have one of the five breeds on the list. We are not banning pitbulls we are just asking that you control them.

There was presented and read to Council on its second reading by title only, ORDINANCE NO. 2017-08; AN ORDINANCE AMENDING SECTION 925.01 (b) TO ESTABLISH WATER RATES EFFECTIVE AT THE EARLIEST DATE DETERMINED BY LAW AND DECLARING AN EMERGENCY.

There was presented and read to Council on its second reading by title only, ORDINANCE NO. 2017-09; AMENDING CODIFIED SECTION 933.02 (b) TO ESTABLISH SEWER RATES EFFECTIVE AT THE EARLIEST DATE DETERMINED BY LAW AND DECLARING AN EMERGENCY.

There was presented and read to Council on its first reading by title only, ORDINANCE NO. 2017-11; AN ORDINANCE DETERMINING THE LOWEST AND BEST BID FOR LEGION ROAD SLIP REPAIR PROJECT IN THE CITY OF ST. CLAIRSVILLE AND AWARDDING

THE CONTRACT TO BORDER PATROL, LLC AND DECLARING AN EMERGENCY. John Tomlan moved that the rules requiring ordinances and resolutions to be read on three separate readings be suspended and declaring an emergency; Jake Olsavsky seconded the motion.

Roll Call Vote

Bukmir	Yes		Sabatino	Yes
Jordan	Yes		Smith	Yes
Olsavsky	Yes		Tomlan	Yes
Roll Call Vote:	Six (6) Yes	Zero (0) No		Motion Approved

There was presented and read to Council on its third and final reading by title only, ORDINANCE NO. 2017-11. A motion was made by Linda Jordan and seconded by Mike Smith that Ordinance No. 2017-11 be passed by Council.

Roll Call Vote

Bukmir	Yes		Sabatino	Yes
Jordan	Yes		Smith	Yes
Olsavsky	Yes		Tomlan	Yes
Roll Call Vote:	Six (6) Yes	Zero (0) No		Motion Approved

Ordinance No. 2017-11 was declared adopted.

There was presented and read to Council on its first reading by title only, ORDINANCE NO. 2017-12; AN ORDINANCE AUTHORIZING THE ADOPTION OF A LAND REUTILIZATION PROGRAM AND IMPLEMENTING THE PROVISIONS OF CHAPTER 5722 OF THE OHIO REVISED CODE.

**NEW BUSINESS: Mayor's report to Council**

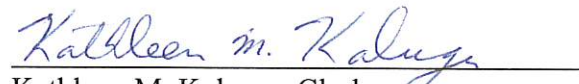
The Mayor's collection for February 2017 was \$3,160.00. A motion was made by Linda Jordan and seconded by Mark Bukmir to accept the Mayor's Report.

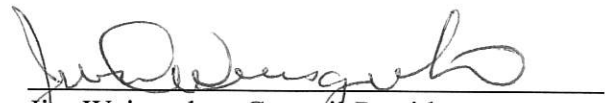
Roll Call Vote

Bukmir	Yes		Sabatino	Yes
Jordan	Yes		Smith	Yes
Olsavsky	Yes		Tomlan	Yes
Roll Call Vote:	Six (6) Yes	Zero (0) No		Motion Approved

The next regular Council Meeting will be Monday, March 20, 2017, at 7:30 in the Council Chamber.

There being no other business to come before Council, a motion to adjourn was made by Mike Smith and seconded by Jake Olsavsky.

  
Kathleen M. Kaluger, Clerk

  
Jim Weisgerber, Council President