MINUTES OF PERRYSBURG CITY COUNCIL

MEETING HELD OCTOBER 18, 2011

Mayor Evans called the meeting to order at 7:00 p.m. Present were Council Members Maria Ermie, Todd Grayson, John Kevern, Joe Lawless, Tom Mackin, Tim McCarthy and Mike Olmstead (7). Also present were John Alexander, City Administrator, David Creps, Clerk of Council, and Mathew Beredo, Director of Law.

Mr. Lawless moved to approve the minutes from the October 4, 2011 meeting and to dispense with their reading. Mr. Olmstead seconded the motion. Ayes: (7). Nays: (0).

SPECIAL REPORTS

None.

LETTERS, COMMUNICATIONS AND CITIZENS' CONCERNS

Mike Miller, CEO and Chairman of the Board of Waterford Bank, was present along with Glenn Paton of Waterford, and Sonny Hamizadeh and Faith Mohr of Poggemeyer Design Group. He stated that Waterford Bank is a start-up bank that began operations in August, 2007 with all local shareholders. They currently have one branch which is in Sylvania. He said they have done research and they believe that Perrysburg is a good market for them. Mr. Miller requested that City Council reverse the Historic Landmarks Commission's (HLC) decision to not issue a Certificate of Appropriateness for the proposed Waterford Bank building at 231 Louisiana Avenue. Mr. Miller stated that this process began back in May, 2011. He said they have listened to and accepted all but one of HLC's suggestions. Mr. Miller said the one suggestion they have not incorporated was to raise the height from the ground to the eaves from 10' to 15'. He said they were not able to accept that suggestion because it would increase construction costs by $80,000 - $100,000. Mr. Miller stated that when the HLC was asked to give their reason for denying the request, they said "it didn't fit". Mr. Miller said that per Section 1245.56 they are appealing the ruling. They feel that the Commission failed to consider the entire record. Mr. Miller stated that the entire record consists of Waterford's willingness to incorporate 7 or 8 suggestions; the cost of the one item they did not incorporate; the possibility/probability of leaving a seriously contaminated site; loss of significant economic benefit with up to 7 employees. Mr. Miller stated that if all factors had been considered, he feels they would have ruled differently.

Mr. Lawless stated that it is troubling to him that a project in Perrysburg has to go through so much to get approved. He said this system does not work well for business and we owe it to the bank to look at the facts and let them move forward as soon as they can. He added that he thinks a 15' height would look out of place.

Mr. McCarthy said that he will have to recuse himself from any discussion due to a potential conflict.

Mayor Evans stated that normally appeals are sent to the Planning and Zoning Committee before being heard by City Council.

Mr. Beredo said that under the appeals Section, it says City Council shall refer to the written guidelines adopted by the Commission and the entire record before the

Commission. He said that he is not sure that the prior minutes and drawings have been provided to City Council. He added that he thinks it's important since the applicant is saying the entire record has not been considered by the HLC. Mr. Beredo stated that he is not sure City Council can take action tonight although he understands the need to act in the timeliest manner. Mr. Mackin asked if Council has the HLC guidelines. Mr. Beredo said he is not sure he has the HLC guidelines. Mr. Mackin said that he feels they have a very legitimate issue for appeal, but he has a problem procedurally moving forward with the appeal tonight. Mr. Grayson asked if the appeal could be heard now and voted on at the next meeting. Mr. Lawless said that would just slow down the process which is unfair to the applicant.

Mike Barthhold who serves on the Historic Landmarks Commission stated that the guidelines are put out by the Secretary of the Interior for historic districts that have National Registry properties. He said the guidelines refer to scale, or size and amount of gross space, and materials. He said that it is HLC's job to evaluate whether an application is consistent; it is not their job to design the building. Mr. Lawless asked if the guidelines say the eaves on a one story building should be 15'. Mr. Barthhold said that it says it should be to scale. Mr. Barthhold displayed a sketch of a portion of the downtown area and showed what the proposed building would look like with a 10' eave line and a 15' line. He stated that the 15' building is bigger and more monumental in scale. Don Earnhart, HLC Chairman, said that this has not lingered with them since May. The first time plans were presented was at the September meeting. Mr. Lawless thanked Mr. Barthhold for his presentation but he said that he thinks the 10' building fits downtown better and if it would cost him more money, he would go with the 10' even if he thought the 15' building looked better. Mrs. Ermie asked if the scale that is being referred to is a perception or is there something exact. Mr. Barthhold explained that there is nothing exact; you start with an outline and with the heights of the surrounding buildings.

Mr. Miller stated that they are trying to create a brand and an image and the design is similar to their other building. Mr. Hamizadeh stated that this was not turned down because of the design criteria or materials; it was turned down because of the height. He said if the height is that important, why is the height not a requirement. He stated that it should be in the guidelines. He distributed copies of the City of Philadelphia's guidelines that specifically address the height of buildings. Mr. Hamizadeh said that he has kindly been reminded that they should have studied the Secretary of the Interior's guidelines. However, these guidelines have a lot about additions to historic buildings but not much about new construction within an historic district. He said the guidelines do specifically say that imitating an historic building is prohibited and that new buildings should provide a complementary design. He said he has tried to strike a balance between the needs of his client, what they can afford, and the needs of the Historic District.

Mr. Lawless said that he appreciates all the comments and he doesn't see any reason to delay as he doesn't feel that reading all the HLC minutes or the Secretary of the Interior's guidelines will help.

John Walters who serves on the HLC said that at the special meeting held at the beginning of October, an individual who served on HLC when the building currently on this site was built, expressed regret that they gave up and permitted the building that is there. He doesn't want to see that happen again. Rik Davis, also from the HLC, said that it is not his position to campaign for or against it, but the basis for appeal is that they didn't consider all information given to them and he feels that they did consider everything. He added that he feels they have been very communicative as to what their reasons were for the denial.

Mr. Mackin said that although they have heard excellent presentations, he is concerned that Council is jumping ahead of what it is supposed to do. Mr. Lawless said he appreciates Mr. Mackin's comments, but he doesn't feel that doing this one or two more times is going to get them anywhere. Mr. Grayson said that he feels it's good for business and good for downtown. He said that they have to be careful of the process and that he wants to do it right procedurally. Mr. Olmstead stated that he is frustrated with the procedural effort and this is an example of needless delay. He stated that the guidelines are not rules and there is discretion involved.

Mr. Alexander said that he thinks we have a good feel of the guidelines. He said the guidelines are pretty fluid and they don't specifically address putting new construction in an existing historic district. He added that it was a specific question from the applicant as to the nature of the denial and the answer was it didn't fit. He said he seriously doubts the Secretary of the Interior's guidelines would be topical, but he would defer to the Law Director. Mrs. Ermie said that if the HLC had not made a presentation this evening, she would not be prepared to vote. Mr. Beredo stated that he agrees that the applicant was entitled to a full explanation as to the reason for the denial. He said if City Council believes that the best case efforts put forth tonight provide the full record then they can act on the appeal tonight.

Mr. Lawless moved to reverse the decision of the Historic Landmarks Commission and grant a Certificate of Appropriateness to Waterford Bank, 231 Louisiana Avenue. Seconded by Mr. Grayson.

Mr. Kevern asked if the only reason HLC turned it down was because of the difference in the height. Mr. Earnhart said it was. Mr. Kevern asked if the façade was acceptable. Mr. Earnhart stated that Mr. Paton and Mr. Hamizadeh were very patient and changed some things that they suggested. Mr. Davis noted that there is a row of mature trees between the bank and an adjacent apartment building. The trees were going to come down but at the October 17th HLC meeting the applicant agreed to keep the trees but he has seen no plans showing that. Mr. Paton said that what they committed to two weeks ago was that they would allow the trees to stand if they survived the construction process. He said they are absorbing the vestibule to allow for more room, so there is a greater probability that the trees will survive. Mr. Miller noted that if there is contamination, the trees will have to come out. Mr. Kevern said that he is not sure the building line referred to would be discernable to anyone other than the experts. He said he feels there are more positives than negatives as this project creates jobs. Mr. Mackin said that Section 1245.56 states that "City Council shall refer to the written guidelines adopted by the Commission and the entire record before the Commission". He said that Council is not doing their job by voting on this tonight and that their role in this process is judicial. He said they are not doing what they normally do and are not doing what they are charged to do. He said they haven't given residents an opportunity to be heard and although some issues have certainly been raised and he substantively agrees with reversing the HLC decision, he will not be voting for it.

Ayes: (5) Ermie, Grayson, Kevern, Lawless, Olmstead. Nays: (1) Mackin. Abstained: (1) McCarthy.

ADMINISTRATIVE REPORTS

Mayor's Report

Mayor Evans called attention to the property valuations for TARTA. He noted that City taxpayers paid $1.478 million for TARTA last year.

Mayor Evans recommended the following appointments and reappointments:

Appointments:

Name	Committee	Term Expiring
Byron Choka	Planning Commission (unexpired term)	12/31/2013
David Munger	Way Public Library Board	12/31/2015
Carol Russell	Way Public Library Board	12/31/2015

Reappointments:

Name	Committee	Term Expiring
Amanda Owens	Litter Control Board	12/31/2013
Sue Bruning	Litter Control Board	12/31/2013
Scott Kirby	Street Tree Commission	12/31/2014
Carol Geracioti	Street Tree Commission	12/31/2014
Zachary Clark	Way Public Library Board	12/31/2015
Mike Murphy	Civil Service Commission	12/31/2015
Robert Gries	Board of Income Tax Review	12/31/2015

Mr. Lawless moved to approve these appointments and reappointments. Seconded by Mr. Mackin. Ayes: (7). Nays: (0).

City Administrator's Report

No report.

Finance Director's Report

No report.

Director of Law

No report.

President of Council Report

No report.

COMMITTEE REPORTS

Finance Committee:

Mr. Mackin gave his report of the October 11, 2011 meeting, a copy of which is attached hereto and made a part of these minutes.

Next meeting: Tuesday, November 8, 2011 at 5:00 p.m.

Rick Ruffner, O'Deer Diner, was present and asked for clarification regarding the lease for O'Deer. He stated that at the Finance meeting it was discussed that it would be extended through the end of the year but the ordinance shows it being extended to November 30, 2011. Mr. Alexander stated that the lease is for the outdoor café which includes the tables and chairs but the proposed Santa house would be a separate issue.

Mr. Creps noted that there needs to be an administrative change to Ordinance 186-2011 to insert the interest rate of 1.125%.

Mr. Mackin introduced **ORDINANCE 185-2011 EXTENDING THE PERIOD DURING WHICH TENANT O'DEER DINER MAY USE LEASED PROPERTY FOR OUTDOOR SEATING 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. Kevern. Ayes: (7). Nays: (0). The Clerk read Ordinance No. 185-2011 by number and title only. Mr. Mackin moved that Ordinance No. 185-2011 be passed as an emergency. Seconded by Mr. Kevern. Ayes: (7). Nays: (0).

Mr. Mackin introduced **ORDINANCE 186-2011 PROVIDING FOR THE ISSUANCE AND SALE OF NOTES WORTH ONE MILLION FOUR HUNDRED THOUSAND DOLLARS ($1,400,000.00), IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF IMPROVING THE WAY PUBLIC LIBRARY BY CONSTRUCTING AN ADDITION; MAKING ALTERATIONS AND IMPROVEMENTS TO THE EXISTING BUILDING; PROVIDING OFF-STREET PARKING FACILITIES; AND PROVIDING FURNISHINGS AND EQUIPMENT, TOGETHER WITH ALL NECESSARY APPURTENANCES, 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. Kevern. Ayes: (7). Nays: (0). The Clerk read Ordinance No. 186-2011 by number and title only. Mr. Mackin moved that Ordinance No. 186-2011, with the administrative change inserting the interest rate of 1.125%, be passed as an emergency. Seconded by Mr. Kevern. Ayes: (7). Nays: (0).

Mr. Mackin introduced **RESOLUTION 36-2011 ACCEPTING AMOUNTS AND RATES DETERMINED BY THE BUDGET COMMISSION OF WOOD COUNTY, OHIO TO AUTHORIZE NECESSARY TAX LEVIES AND CERTIFY THEM TO THE COUNTY AUDITOR AND DECLARING AN EMERGENCY** and moved that the rules be suspended to allow for its reading by number and title only. Seconded by Mr. Kevern. Ayes: (7). Nays: (0). The Clerk read Resolution No. 36-2011 by number and title only. Mr. Mackin moved that Resolution No. 36-2011 be passed as an emergency. Seconded by Mr. Kevern. Ayes: (7). Nays: (0).

Ms. Ermie stated that she feels it is important to follow the solar businesses because she is concerned that the cemetery funds are not guaranteed and she wants to make sure they can pay their loan. If they default, it comes back to the City. Mr. Lawless said that he believes the last Cemetery financial statement showed revenue above projections.

Economic Development Committee:

No report.

Next meeting: Monday, November 21, 2011 at 6:00 p.m.

Service-Safety Committee:

No report.

Next meeting: November 7, 2011 at 5:00 p.m.

Mr. Kevern introduced **ORDINANCE 187-2011 AUTHORIZING AN AGREEMENT WITH NORTH BRANCH NURSERY IN AN AMOUNT NOT TO EXCEED TWENTY-FOUR THOUSAND FOUR HUNDRED FIFTY DOLLARS ($24,450.00) FOR PHASE ONE OF THE 2011 FALL TREE PLANTING AND DECLARING AN EMERGENCY** and moved that the rules be suspended to allow for its reading by number and title only. Seconded by Mr. Lawless. Ayes: (7). Nays: (0). The Clerk read Ordinance No. 187-2011 by number and title only. Mr. Kevern moved that Ordinance No. 187-2011 be passed as an emergency. Seconded by Mr. Lawless. Ayes: (7). Nays: (0).

Mr. Grayson stated that this ordinance seems like something that could have been done months ago and that it didn't need to be put through as an emergency measure. He said he doesn't know who is to blame, but he would prefer not passing these as emergencies, and he feels this is a classic non-emergency.

Mr. Beredo noted that ordinances regarding the purchase of any goods are effective immediately at passage. He stated that this matter was actually brought to the Service-Safety committee at their October 3, 2011 meeting so it was an issue Council was briefed on two weeks ago.

Mr. Grayson said that his concern is for the general public; he's not complaining about it for City Council.

Recreation Committee:

Mr. Lawless gave his report of the October 17, 2011 meeting, a copy of which is attached hereto and made a part of these minutes.

Next meeting: Monday, November 21, 2011 at 5:00 p.m.

Planning And Zoning Committee:

Mr. McCarthy gave his report of the October 18, 2011 meeting, a copy of which is attached hereto and made a part of these minutes.

The next regular committee meeting is Wednesday, November 16, 2011 at 5:00 p.m.

Mr. McCarthy asked that a general discussion regarding the procedures for appeals from subordinate bodies be placed on the November agenda for the Planning and Zoning Committee.

Personnel Committee:

No report.

Next meeting: Tuesday, October 25, 2011 at 5:00 p.m.

Health, Sanitation and Public Utilities Committee:

No report.

Next regular meeting: Tuesday, October 25, 2011 at 6:00 p.m.

Mr. Grayson asked if there was any update on negotiations with CTI. Mr. Alexander said that they have what they believe is the final negotiated price from CTI. He said they have not yet evaluated whether to move on to the next firm because if you move on to #2, you can't go back to #1. He stated that the Administration will have a recommendation at the October 25th committee meeting.

OTHER BUSINESS

None.

ADJOURNMENT

Mr. Lawless moved to adjourn the regular meeting at 8:50 p.m. Seconded by Mr. Mackin. Ayes: (7). Nays: (0).

David D. Creps, Clerk Nelson D. Evans, Mayor