

# CITY OF ROCKY RIVER

**March 11, 2024**

The Legislative Meeting was called to order by Mr. Furry, President of Council, at 7:00 p.m. in the David J. Cook Council Chambers.

Council Members Present: Mr. Hunt, Mrs. Gallagher, Mr. Shipp, Mr. O'Boyle,  
Mrs. Morris, Mr. Sindelar, Mr. Furry

Administration: Mayor Bobst, Mr. Thomas, Mr. Snyder

Law Director: Mr. O'Shea

The meeting was opened with the Pledge of Allegiance.

## **MOTION:**

Moved by President Furry seconded by Mrs. Morris that the reading of the minutes of the Legislative Meeting of February 26<sup>th</sup> be waived and that the minutes be accepted as presented.

|       |              |                 |             |               |
|-------|--------------|-----------------|-------------|---------------|
| Vote: | Hunt – aye   | Gallagher – aye | Shipp – aye | O'Boyle – aye |
|       | Morris – aye | Sindelar – aye  | Furry – aye |               |
|       | 7 – ayes     |                 | 0 - nays    | <b>PASSED</b> |

Moved by President Furry seconded by Mrs. Morris that the reading of the minutes of the Public Hearing, Special Meeting and the Committee-of-the-Whole Meeting of March 4<sup>th</sup> be waived and that the minutes be accepted as presented.

|       |              |                 |             |               |
|-------|--------------|-----------------|-------------|---------------|
| Vote: | Hunt – aye   | Gallagher – aye | Shipp – aye | O'Boyle – aye |
|       | Morris – aye | Sindelar – aye  | Furry – aye |               |
|       | 7 – ayes     |                 | 0 - nays    | <b>PASSED</b> |

## **MAYOR'S REPORT:**

The Mayor reported that the County will be at Memorial Hall on Thursday, April 11<sup>th</sup> from 6:00 – 8:00 p.m. for an informational session for residents regarding the Sexennial Reappraisal of property. This happens every six years and is a requirement of the State of Ohio. Every County Council District will have an informational night. Residents will not have their individual property information yet as that will arrive sometime in the summer. There is a procedure if residents do not agree with the valuation through the Board of Revision. The City of Rocky River is County Council District 1 with Councilman Kelly.

Congratulations and thank you to Director Thomas and the Finance Department. There was a review of both the Fire and Police Pensions, which is done every few years, and all was in order with no exceptions.

The Mayor said that late last week, a ReadyNotify was sent out with Eclipse information. The city wants everyone to enjoy their time on April 8<sup>th</sup>, but there are a number of considerations. There was some information regarding safe boating that the Coast Guard assisted with. There may be additional information sent out.

The Mayor discussed the dredging in the Rocky River in the amount of \$800,000 or \$900,000 request that was advanced by Congressman Miller. The city has accelerated this request with the help of the Army Corps of Engineers to an emergency level, especially at the sides of the river. That should be about 8 feet deep, it is about 1 ½ feet deep. There are some challenges down there. It has all been mapped and remapped by the Army Corps of

Engineers. The city is continuing to work on this. If Council hears from anyone regarding navigation in the Rocky River, the city is working on it diligently with the Federal Partners.

Story Road will be closed this Wednesday, both lanes in either direction. The detour will be on Lorain Road. Safety forces are aware of it. On Thursday, one way westbound will be open and then totally open on Friday. There is a home that needs a new connection,

The Mayor shared Building Department Statistics:

- There is a total of 190 permits at the end of February, compared to 203 in 2023. The greatest investment as of now is residential development. \$5 million as compared to \$3 million in 2023 at this time.
- The commercial investment, there are a lot of commercial projects that are ongoing and began last year so that valuation was reported last year and it was an all-time record.
- This year 25 permits have been pulled for a total of \$3.1 million, totaling \$8.14 million of investment through February.

The Mayor will continue to keep Council updated on these stats.

The Mayor mentioned that there are renovations going on at the Civic Center and Recreation Center with a new control desk and other things happening this week.

Last week a student from St. Joseph High School that shadowed the Mayor which means she shadowed every department in the city. All the Directors take time out of their busy schedules to meet with students for 30-60 minutes. The most notable was that she brought photographs for the Mayor from her grandmother. Her grandmother was a young child when the City Hall Building was dedicated. It turns out that her great, great grandfather was former Mayor Gibson when this building was built and dedicated. Elisabeth DeClerck, the St. Joseph student, was discussing the time capsule that is buried out in front of City Hall. The photographs show what appears to be the Mayor putting the box behind the cornerstone. At some point, the city will be drilling through the wall in search of the time capsule. The Mayor was so pleased to have her spend time at City Hall last week and looks forward to meeting her grandmother.

The Mayor said that Thursday is Pi Day and the Senior Center will be selling pies. The Mayor learned today that Pi is 3.14159265. Director Kerber can recite out to 262 decimals.

Little League Opening Day is May 4<sup>th</sup>. It will kick off here at City Hall at 9:30 a.m. with a parade down Hilliard to the ball fields.

**LAW DEPARTMENT:** Director O'Shea said he sponsors a Little League Team every year.

**COMMITTEE REPORTS: NONE**

**COMMUNICATIONS FROM COUNCIL: NONE**

**PUBLIC COMMENT: NONE**

**UNFINISHED BUSINESS:**

**AMENDED ORDINANCE NO. 51-23**

**BY: JEANNE GALLAGHER**

**AN ORDINANCE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN REAL PROPERTIES KNOWN AS AUDITOR'S PERMANENT PARCEL NOS. 301-17-082, 301-17-083, 301-15-048, AND 301-17-084, FROM THEIR PRESENT CLASSIFICATION OF SM-SERVICE MANUFACTURING TO OB-2-OFFICE, AS FURTHER DESCRIBED IN EXHIBIT "A"**

**ON HOLD**

Mrs. Gallagher said this amended ordinance is to change the zoning classification of four parcels located on Ingersoll Drive from their present classification of Service Manufacturing to OB-2 Office and is still on hold.

**2<sup>nd</sup> AMENDED ORDINANCE NO. 80-23**

**BY: JEANNE GALLAGHER**

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF ROCKY RIVER CODIFIED ORDINANCES CHAPTER 1163 ENTITLED “OFFICE BUILDING DISTRICT REGULATIONS”, AS FURTHER DESCRIBED IN THE ATTACHED EXHIBIT “A”**

**2<sup>nd</sup> READING**

Mrs. Gallagher stated that this is amending various sections of the Codified Ordinance Chapter 1163 entitled Office Building District Regulations. This was referred to the Planning Commission with Council’s recommendation of a maximum height of 70 feet in OB-2 Building Districts. After Planning’s Public Hearing held on January 18<sup>th</sup> they sent back their recommendations. Their recommendation is to amend text in Section 1163.03 Use Regulations; 1163.05 Lot Regulations; 1163.07 Set Back Requirements; 1163.09 Height Requirements; 1163.11 Off Street Parking Regulations and 1163.13 Accessory Use Regulations. In addition, they are also recommending a new OB-3 District. A Public Hearing was held here on March 4<sup>th</sup>, and Council can adopt, deny, or adopt some modification of this recommendation.

- Mr. O’Shea said there was an attachment to the minutes of January 18<sup>th</sup>, 2024, Planning Commission a redlined version of the amended. This has been amended.
- Mr. Hunt has a question regarding the schedule of Permitted Use Changes in 1163.03 under the Retail and Services Establishment, he is wondering what service establishment is exactly. Mr. Hunt also asked under Subsection 6, e, Library, cultural institution; g, cultural institution, is wondering if that is an overlap of if there is a specific delineation of what library and cultural institution is and just a regular cultural institution. Mr. O’Shea said that it may be in the definitions of the Development Code.
- The Mayor asks that Council send their questions to the Clerk of Council, the Mayor will meet with Commissioner Reich and Kate Straub and will get answers to all of those for you.
- President Furry said that we all agree that 150 feet is high for an office building in Rocky River, but what Planning Commission has proposed is a good compromise between OB-1 and OB-2 at 75 feet and the new OB-3 at 95 feet. The proposed allows existing buildings currently zoned to be in compliance with the new OB-3 designation. Mr. Furry knows from his full-time employer he has seen more commercial lenders requiring zoning certs that they are compliant. There are only a few buildings that would fall under this classification and assuming the city does not have the OB-3 would be grandfathered in. However, if they burnt down or wanted to rebuild to the same specs, they would not be able to do that, which he does not think is right. The one question he has; he thinks he knows which buildings would theoretically be OB-3 now between Allen Court. The Mayor said this is something different. This doesn’t automatically rezone properties. All this is the Development Code. If someone came in and wanted to redevelop and they wanted to build to a height of 95-100 feet, they would have to come back. Unless they wanted a lesser height, they would have to go through Council for rezoning. This does not automatically change the specific zoning classification for an individual parcel. This is just the Development Code. But the point is well taken that you have to consider where does this exist around the city. Where does office zoning exist and where do these heights that are consistent with the permitted uses exist.
- Mrs. Morris said her only caveat is to be sure Council is considering the abutment of residential homes cannot be more than 55 feet. She does not think that anything that is OB-2 now is more than 55 feet. There are OB-2s that are up to 75 feet high and maybe should not be that high if they are next door to a residence. The Mayor said there are other things that would restrict that. Mrs. Morris thinks something should be put in here that explicitly says you cannot have two story houses with buildings 75 feet next door.

- The Mayor reiterated that now that the Planning Commission has made a recommendation to City Council, there are certain things Council can do. If Council is going to change other things, you can change something like this but would need a super majority to pass it. If it is where Council wants it to be or is close to where you want it to be and are going to consider it for passage, these other issues should be a separate piece of legislation and that should go back through the Planning Commission. This could be changed but with a super majority of council which is 5 votes. Mrs. Morris wants to be considerate of the residents and feels this has been a good solution to the back-and-forth dilemmas that Council has had. Having the OB-3 does solve a lot of problems. Mrs. Morris said she would hate to see the building on Linden, that the police were in, to have to go down to 75 feet. The Mayor said that is now residential and they are moving ahead. Mrs. Morris said the grandfather clause only lasts for a year. The Mayor said they are not touching the envelope of that building, in other words not touching the footprint or the height. Mrs. Morris is only suggesting if it burns down to the ground, if something were to happen, they couldn't rebuild without it being rezoned. Mr. O'Shea responded sort of. He said if the Westlake Hotel were to burn down, they could rebuild it to the same height. They are grandfathered in to get their approval and make progress. The city would be sued if the city said you cannot build it up to the same way it was before. We cannot move the goal post while an existing building is standing and then say if it burns down or falls to the ground reducing their height for any reason, they reserve the right. Any building that is in compliance with the current code, the city cannot amend the code and outlaw the current use of that building. The city cannot take a previously existing property situation away from a property owner.
- Mr. O'Shea said to remember that 1135.15 of the Codified Ordinances says that Council can do one of three things after the Planning Commission has delivered their recommendations. By majority vote as is; if Council chooses to try to amend it, then Council needs a super majority which is 5 out of the 7 of this body to vote for the amendment or if you want to vote it down, just say no and live with 1163 as is, leave it alone, a super majority is needed for that. The Planning Commission has acted, it has fulfilled its Charter obligation with the city to make its recommendations and put it in writing as part of the minutes from the 18<sup>th</sup>. If you choose to either vote it down or to change it, you need a super majority. What we should be looking at or choosing to challenge us on how we vote, to look at surrounding communities and how they handle things. That provides a little bit of a metric for how things are on the west side. The factors are in 1135.19, A B C need to be discussed in the context of making your decision.
- Mr. Furry spoke with Chairman Bishop about Dublin or Upper Arlington being applicable to us, but he did provide the handout that was distributed last week.
- Mr. Shipp asked if anyone could articulate for him to help him understand the difference between needing OB-3 to protect certain properties so it would be non-conforming if we change the code verses the grandfathering in under what it is now. Why do we need OB-3 if there is already a layer of protection. What is the difference. Mr. O'Shea said that the reasons for the recommendations are all included in the minutes from the meeting on the 18<sup>th</sup>. Mr. Shipp asked if Chairman Bishop would come to a meeting. Mr. O'Shea said yes, but the Planning Commission as a body has already spoken. Mr. Shipp is trying to understand what they are telling us. We have to interpret it through the minutes. There is not enough direct communication between them and Council. The Mayor said that all questions Council has should be written down to forward to Chairman Bishop before he attends next Monday's meeting. Mr. Shipp said the law he researched says that the City Master Plan is what controls. The Mayor said the City Master Plan is a guiding document. Mr. Shipp said that if you deny a rezoning request, and that request is in conformance with the goals in the City Plan, the city is not in a good position to deny it. The Mayor said that the Master Plan is a flexible guiding document. It can be used, but it is a guiding document and is not written in stone. It is very aspirational and that is why the Development Code helps advance it. Mr. Shipp would suggest looking at some case law that he has that analyzes these types of questions and the City Master Plan is a huge factor. The Mayor said the City Master Plan in other cities could be a more permanent document but it is dependent on what the Charter says. Mr. Shipp said that OB-3 can be requested in the future which

puts us right back in the situation we are in now where someone wants to go higher maybe, and they can request OB-3 because it exists, and if we deny it then we are back in the circle of what can we or not do. That is why if the City Master Plan has anything to do with it, we need to change the City Master Plan because when there are disputes in court between cities and developers, they look at that. It is what the Master Plan says, is this consistent with what the city is wanting to do to develop it and it is in favor of development generally, but he does not hear anyone saying why do we need OB-3 when we have a grandfathered clause. As a separate issue, if someone came in and wanted to rezone to OB-3, we could not stop that. We would have to find something in the City Master Plan that says that it is inconsistent with what we want here. There is a disconnect between what he sees from Mr. Bishop and what the Code says and what the case law says when interpreting those kinds of codes. That is his concern.

- The Mayor said the Master Plan was done in 2004 or 2005 and adopted by this Council and readopted in 2018, which is the current Master Plan. Our Master Plan is not for the entire city but for focused areas like the Center Ridge Corridor which has buildings this high. Again, it is a guiding document and it is not a legal document, but it is used as a very critical variable by our Building Department and Land Use Commissions as well as developers. There probably isn't one developer that doesn't come to that podium and say how their project fits the Master Plan. The Planning Commission wants to hear that they are looking at that, thinking about trees, sidewalks and connectivity, height, parking and all the things that are important to realize the Master Plan. The Master Plan in our view is a guiding document, prepared by the entire community with lots of stakeholder input, and is usually done every ten years.
- Mr. Furry asked if we can request Chairman Bishop to attend next week's meeting. Please forward your questions to Clerk Pease.
- Mr. Hunt said that within 1163.05 the change to lot coverage by building goes from 30 to 40%. He is interested to know if this increase is proportionate correspondence to the actual potential increase in height, why is lot coverage being expanded. In 1163.07 the minimum set back is reduced from the street right of way by 150%...we go from a minimum of 25 feet to a minimum of 10 feet with a maximum of 25 feet. Seems like we will have the same issue as the Lake Road condos being right on the street. Is ten feet enough of a setback?
- Mr. O'Shea said that Article 6 Section 3 of the Charter talks about the Planning Commission and the Master Plan every ten years.

**AMENDED ORDINANCE NO. 7-24**

**BY: MICHAEL J. O'BOYLE**

**AN ORDINANCE AMENDING THE DEVELOPMENT CODE OF THE CODIFIED ORDINANCES OF THE CITY OF ROCKY RIVER, SPECIFICALLY SECTION 1135.09 ENTITLED PUBLIC HEARING AND NOTICE BY PLANNING COMMISSION AND SECTION 1135.13 ENTITLED PUBLIC HEARING AND NOTICE BY CITY COUNCIL, AS FURTHER DESCRIBED IN THE ATTACHED EXHIBIT "A" (Referred to Planning Commission)**

Mr. O'Boyle said this ordinance is to amend the Development Code of the Codified Ordinances of the City of Rocky River, specifically Section 1135.09 entitled Public Hearing and Notice by Planning Commission and Section 1135.13 entitled Public Hearing and Notice by City Council, as further described in the attached Exhibit A. Mr. O'Boyle said these are changes to the Development Code specifically in adding to the Development Code allowing for expanded uses of modes of communication by which to notify residents about open meetings. It has been referred to the Planning Commission and will be discussed at the Public Hearing on March 19<sup>th</sup>.

**NEW BUSINESS:**

**ORDINANCE NO. 15-24**

**BY: JEANNE GALLAGHER**

**AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC SAFETY SERVICE TO PURCHASE A PREFABRICATED RESTROOM BUILDING FOR BRADSTREET'S LANDING PARK UNDER THE SOURCEWELL COOPERATIVE PURCHASING CONTRACT FROM ROMTEC, INC. AT A COST NOT TO EXCEED \$182,713.72, AS FURTHER DESCRIBED IN EXHIBIT "A"**

**1<sup>st</sup> READING**

Mrs. Gallagher passed around the photograph of the potential building. This includes preliminary drawings based on recommendations of Director Snyder and Director Holub and is based on field work being performed by MacKay Engineering. Also included are the prefab materials necessary for the construction of this restroom. The delivery of materials will be expected later this summer. The next step will be bidding out the site work and physical construction for completion this fall. This restroom facility will be located in the southwest portion of the park and includes two unisex restrooms, ADA compliant within a facility that will be heated and open to the public year-round versus the seasonal restroom previously located at Bradstreet. It will also have a mechanical room with limited storage and a water fountain bottle filler. A bike rack will be added and potentially a bike service station. MacKay is in the process of developing the plans for the utilities for the building due to the elevation of the building compared to the depths of the sanitary main on Lake Road, it will also need a small sanitary chopper pump to take sanitary sewage to Lake Road but the equipment will be much smaller than was previously in place with the old restroom. Romtec, Inc. received a favorable recommendation from Kim Kerber from MacKay Engineering, The City of Fairview Park used Romtec for the purchase of the Bain Park restrooms. A search of the auditor's website finds no unresolved findings.

- President Furry asked if there was a draft comparison if built from the ground up. Mr. Snyder said it would be at least this amount or more because there would be additional design and engineering. Mr. Snyder will get a list of agencies that utilize the Romtec buildings in addition to Fairview Park. Mrs. Gallagher thinks the City of Orange has used them.

**ORDINANCE NO. 16-24**

**BY: BRIAN J. SINDELAR**

**AN EMERGENCY ORDINANCE AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC SAFETY SERVICE TO ENTER INTO AN AGREEMENT WITH FABRIZI TRUCKING & PAVING COMPANY, INC. FOR THE EMERGENCY REPAIR OF STORM AND SANITARY SEWERS WITHIN THE CITY OF ROCKY RIVER AT A COST NOT TO EXCEED \$300,000.00 AS FURTHER DESCRIBED IN EXHIBIT "A"**

**1<sup>st</sup> READING**

In the interest of time, Mr. Sindelar will discuss this more in-depth next week. This is an annual ordinance and Mr. Sindelar may ask for a rules suspension or if there is a Special Meeting next week, it could be passed in three readings. Mr. Furry said that Fabrizi has been in place a long time and has done other jobs for the city. Mr. Sindelar said this is an actual emergency ordinance for emergency sewer repairs. Fabrizi has kept their pricing at a very stable rate for the last eleven years. There was a cost adjustment in 2022 or 23 as everyone knows the supply chain issues coming out of the pandemic. An interesting thing to point out is that in 2024 they were the lowest and best bid. After an attempt to seek out others there were only two bids, but they are lower than they were last year. They are an honorable company keeping their prices where they have and are always responsive when called. Mr. Sindelar said it holds true that as a body Council hardly ever suspends rules.

- Mr. Furry said there will be a Special Meeting next week for Ordinance Nos. 15-24 and 16-24.

**CONSENT AGENDA:**

**RESOLUTION NO. 12-24**

**BY: BRIAN J. SINDELAR**

**A RESOLUTION AUTHORIZING THE MAYOR TO RENEW OUR AGREEMENT WITH NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) FOR THE NOPEC 2024 ENERGIZED COMMUNITY GRANT AS FURTHER DESCRIBED IN EXHIBIT “A”**

**3<sup>rd</sup> READING**

Mr. Sindelar said this has been discussed for weeks with little to no discussion. Mr. Sindelar said this is a great opportunity to get energy credits for improvements we make in the city. There has been a decent size windfall for those upgrades.

**RESOLUTION NO. 14-24**

**BY: DAVID W. FURRY**

**A RESOLUTION AUTHORIZING THE CERTIFICATION OF UNPAID PROPERTY MAINTENANCE COSTS TO THE CUYAHOGA COUNTY FISCAL OFFICER FOR COLLECTION IN ACCORDANCE WITH THE LAWS OF THE STATE OF OHIO AND AS FURTHER DESCRIBED IN THE ATTACHED EXHIBIT “A”**

**3<sup>rd</sup> READING**

Mr. Furry said this is to certify special assessments to the County Fiscal Officer for unpaid maintenance costs. The city will receive their money eventually.

President Furry moved to approve Resolution Nos. 12-24 and 14-24, seconded by Mr. Sindelar and Mrs. Gallagher.

|       |              |                 |             |               |
|-------|--------------|-----------------|-------------|---------------|
| Vote: | Hunt – aye   | Gallagher – aye | Shipp – aye | O’Boyle – aye |
|       | Morris – aye | Sindelar – aye  | Furry – aye |               |
|       | 7 – ayes     | 0 – nays        |             | <b>PASSED</b> |

**MISCELLANEOUS BUSINESS: NONE**

**COMMITTEE REPORTS: NONE**

**COMMUNICATIONS: NONE**

**PUBLIC COMMENT: NONE**

As there was no further business by members of Council, the Legislative Meeting was adjourned at 7:58 p.m. There will be a Special Meeting and Committee-of-the-Whole Meeting on March 18<sup>th</sup>.

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David W. Furry  
President of Council

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Susan G. Pease  
Clerk of Council