

September 04,

2018

The Council of the Municipality of New Lebanon, Ohio, met in regular session on Tuesday, September 4, 2018 at 7:30 p.m. with Mayor Arriola presiding. Present were Service Department Superintendent Scott Brock, Law Director Ronald D. Keener, Police Chief Rick Daulton, Zoning Compliance Officer David Lunsford, Clerk of Council Sandy Wright and several visitors. Municipal Manager/Fire Chief George Markus and Chief Financial Officer Brenda Etter were absent.

ROLL CALL

The following members were present at the Call to Order: Raymond Arriola, Gale Joy, Carol Macmann, Glenna Madden, Hillary McClusky, Christopher Sands, and Douglas Thompson.

INVOCATION

Mayor Raymond Arriola gave the invocation.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

APPROVAL OF MINUTES

Mayor Arriola stated next is the approval of the June 5, 2018 regular meeting minutes. Are there any corrections or changes that need to be made to these minutes? Nothing was heard.

Mayor Arriola stated all in favor of these minutes please signify by saying aye, all opposed same sign.

OLD BUSINESS

Mayor Arriola stated there is nothing under old business. Does anyone have any old business? Nothing was heard.

NEW BUSINESS

Mayor Arriola stated under new business we have **RESOLUTION 2018-24**. **A RESOLUTION AMENDING SECTION 5, COMPENSATION OF THE CONTRACT AND SECTION 9, VACATION, SICK TIME AND OTHER LEAVE TIME OF THE CONTRACT WITH MUNICIPAL MANGER GEORGE A. MARKUS.**

Mayor Arriola stated any questions. Nothing was heard.

Mayor Arriola stated do I have a motion to adopt Resolution 2018-24.

Motion by Council Member Macmann, second by Council Member McClusky to adopt Resolution 2018-24.

ROLL CALL ON ABOVE MOTION: Council Member Arriola, yes; Council Member Joy, yes; Council Member Macmann, yes; Council Member Madden, yes; Council Member McClusky, yes; Council Member Sands, yes; Council Member Thompson, yes; 7 yes 0 no

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ALL IN FAVOR. MOTION CARRIED.

Mayor Arriola stated next is public comments or questions. If anybody has any comments or questions please come forward to the podium and state your name and address for the record.

PUBLIC COMMENTS OR QUESTIONS

Mark Bundy, 124 Laredo Avenue stated I was here 4 weeks ago and thought I would give you a little time, can I hand this to you please? Please notice the first picture on page 1, you can see the weeds in my fence and on their side of the fence. You can see the debris all over the trampoline; the way the weeds are growing up around the east fence in their yard. The next door neighbor to them at 206 Laredo Avenue put plastic up on his fence so people can't see his backyard. He cuts his grass maybe once a month and it usually so thick you can't get the lawnmower through it so he takes a weed eater to it. He cusses and yells and carries on. You see how high the weeds are on the east side of the fence. If you look at picture 2 you will see toys in the front yard and thrown up to side of the house. The Christmas lights are still up the old tire is still in front of the house. It may be in front of the house one day, side of the house one day, or in back of the house one day, toys and junk up in front of the house. If you go on over to page 3 there are other pictures of the back yard. They finally put the garbage can in the back of the yard against the house but the weeds are still there and the brush up in the east corner of the yard. If you look at picture 4 you can see that you cannot see their back fence. The last time I was here Ms. Madden you said it is the property owner's responsibility to take care of the utility ride of way. I thank you for that because I take pride in how mine looks. If you go to page 3, picture 5 and the reason I took that picture there is a piece of trash laying out in the front yard but if a good wind don't come around that trash does not go anywhere. If you notice in picture 6 they have the old shovel sitting there and debris; they cleaned up a brush pile and it laid there over 2 months and they finally cut down 1 small mulberry bush in the back yard and it laid there until it was all dried up. The kids go from the front yard to the back yard and they have to go around that brush pile on to my property and I warned them verbally about it. If you look at picture 7 and 8 if you notice the date it is August 17, 2018 and it shows how tall the grass was. They went 28 days without cutting their grass. As of right now it has been 23 days since they have cut their grass and that is how bad it is. If you go over to the next picture you will see a good demonstration of how all of the junk is piled up in front of the house. I was here a few months ago and was told there is nothing wrong with having toys in the front yard; this is not just toys, there is old lawnmower. The kids rarely play with those toys. This has been there for 2 to 3 years. There is something in the code about keeping your fence up and I am getting ready to paint my fence; you see the gate is almost ready to fall off in that picture. It has been like that for months. If you look at the other picture it is the utility right of way facing east behind my property and you see how the weeds grow up and just let go. Notice the condition of the garage door.

Mayor Arriola stated I have driven by several times since you were here and there has been no change.

Mr. Bundy asked how many of you try to look at this stuff? Who would like to live next door to this for 21 years? By the way and I am proud to say I just made my last house payment. I have numerous documents and letters that have been sent to these people all these years I have been coming up here. Nothing is being done. The last time I was here it was said by Mr. Lunsford that he sends them over to the court but all they do is dismiss them. I am not going to call the man a liar but something is not right. You guys have to do something. I don't know what, but something has to be done.

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Council Member Sands stated there was an article in the Sunday paper about Miami Township has starting sending them a fine for the first and second time and then they are taken to court. If these people start getting a fine instead of sending them to court maybe we will get their attention.

Mr. Bundy stated that has been my theory all along. If you hit them in their pocket book you would get something done. Two years ago Jerry Roberts came up to me and said I had to stop coming up here because it was costing him too much and then he died from an overdose soon after that. With that being said I have a request under the Freedom of Information Act (FOIA), 5 U.S.C., Section 552 requesting specific dates that code violations have been filed with the Montgomery County Court System pertaining to the properties of 200 and 206 Laredo Avenue.

Mayor Arriola stated I am really sorry you are going through all of this Mr. Bundy. I see cars parked in the yard and trailers parked on the street. We don't know what else to do it but ticket them, right Chief.

Police Chief Daulton stated unfortunately there are no laws covering bad neighbors.

Mr. Bundy stated a good neighbor conducts themselves in an orderly fashion; they don't have kids yelling all the time and slamming doors and running in and out constantly. They don't have kids using the F word in every other sentence. I define a good neighbor as someone who respects themselves and me above all and they take care of their property.

Mayor Arriola stated we need to do something about Mr. Jones. He owns the property.

ADMINISTRATIVE STAFF COMMENTS

Mayor Arriola stated we will go to administrative staff comments.

Mayor Arriola stated Police Chief Daulton.

Police Chief Daulton stated I have nothing tonight.

Mayor Arriola stated anyone have anything for the Police Chief. Nothing was heard.

Mayor Arriola stated do we have anything from the Fire Chief.

Police Chief Daulton stated he has nothing tonight sir.

Mayor Arriola stated any questions for the Fire Chief. Nothing was heard.

Mayor Arriola stated Zoning Compliance Officer David.

Zoning Compliance Officer David Lunsford stated I know I will get asked by Council Member Sands they do have a permit for the Church Street address.

Mayor Arriola stated any other questions for David.

Council Member Thompson stated I have one item for David. I was going to call you today but things were crazy. The house on the corner of Heeter Drive and Alta Place with the broken garage door is really a mess. I saw something on the front door.

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Zoning Compliance Officer Lunsford stated I believe it was just cleaned out and the notice on the front door was from me. The one sister sold it to the sister about 2 weeks ago and the sister who bought it sold it someone in Springboro, then he sold it again.

Council Member Thompson asked what is the process when someone does not secure the property? Do we go out and do it and send them a bill.

Zoning Compliance Officer Lunsford stated first a letter is sent to give the owner a chance, then we have the Service Department secure it and give the bill to Brenda to have the cost assessed to the property taxes.

Mayor Arriola stated anything else for David. Nothing was heard.

Mayor Arriola asked is there anything from Chief Financial Officer Brenda? Does she have anything?

Police Chief Daulton stated she does not.

Mayor Arriola stated Service Department Superintendent Scott.

Service Department Superintendent Scott Brock stated I have nothing tonight sir.

Mayor Arriola stated we had the walking path last year in the budget. Are there any updates? Are we starting in the front or the back?

Service Department Superintendent Brock stated I was instructed to seek bids to fine grade the existing walking path around the demonstration prairie oval.

Mayor Arriola asked did we get any quotes?

Service Department Superintendent Brock stated we have one quote.

Mayor Arriola stated any other questions. Nothing was heard.

Mayor Arriola stated Parks and Rec.

Starr Joy stated our last Friday Night Out is happening next month on September 21st from 6-9 p.m. at Don Rusk Park in conjunction with the Homecoming game instead of Stanley Jones Park. We will have a DJ, a Balloon Glow, 11 vendors, 6 food trucks, and a live performance by Noah Back. From the garden we served over 277 families, produced over 1,000 pounds of veggies and over 2,500 flowers. We are also getting a lot of donations from other gardens around the community. Today we received a donation from the CAS Center. From the Food Bank they reported serving 68 families and 165 individuals. They are also having a Mass Mobile Farmers Market on September 28th at Welcome Stadium at 11:00 a.m. We are also thankful to the Chamber of Commerce who donated \$1,000 of the proceeds from the 4 mile race that they hosted at the Sunflower Festival. We are also planning our Halloween and Christmas festivals and our Veteran's Candlelight dinner.

Council Member Thompson asked when there is a donation is it a monetary donation?

Starr replied I think so.

Council Member Thompson asked what fund does it go into?

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Vice Mayor Madden stated it goes to the Parks and Rec. Fund.

Council Member Macmann stated the Chamber stated it should go to Parks and Rec. Fund.

Council Member Thompson asked is that common for donations like that to come to a government agency.

Vice Mayor Madden stated occasionally.

Mayor Arriola stated Municipal Manager comments.

MUNICIPAL MANAGER'S COMMENTS

Municipal Manager/Fire Chief Markus absent tonight due to surgery.

COUNCIL MEMBER COMMENTS

Mayor Arriola stated Gale.

Council Member Joy stated I have nothing this evening.

Mayor Arriola stated Doug.

Council Member Thompson stated I have nothing this evening.

Mayor Arriola stated Carol.

Council Member Macmann stated I am frustrated that we can't do anything about this problem.

Mayor Arriola stated I am with you.

Council Member Macmann stated you said something about Miamisburg. Is this something we can look into?

Council Member Sands stated it was Miami Township and it was in the Sunday paper. It started out with first fine is \$100.00, second fine is \$250.00, third fine is \$500.00, and fourth fine \$1,000.00.

Council Member Macmann asked is this something we can look into?

Vice Mayor Madden asked is this their zoning or police department doing this?

Council Member Macmann stated I am thoroughly disgusted because I drive around New Lebanon and I see things that really irritate me. It hurts all of our property values and affects the whole community.

Council Member Sands stated we have ordinances that say we have to give them thirty days to get it fixed. I think if we sent them a letter stating you have thirty days to get it fixed or you will be fined \$100.00 and the next fine will be \$250.00, etc and the fourth you will be summoned into court. Then if the courts do nothing at least we have some fines.

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Council Member Macmann stated people who own buildings and property and do not keep them up is unacceptable. If the courts are not going to help us then we need to start talking about what else we can do.

Law Director Ronald D. Keener stated since the last time we were here I have looked into what the City of Dayton has been doing with nuisances. I have also looked into Fairborn but I am not familiar with this one. The problem with most of these nuisance issues is everybody in the United States world is entitled to due process. You can't just go out and say you left a bicycle in your driveway; you are fined a \$100.00. In order to do something like that number one we have to develop a method of establishing some kind of due process which probably, I haven't got an answer yet but it means that we establish some type of committee or board or something of that nature; we give the notice and give them an opportunity to be heard; then a civil fine is issued, there has to be an appellate process to the court which works as far as they wish to take it but at least we are getting something done. One of the things I was going to ask is I would like a copy of all the ordinances we have about mowing, trash, about whatever that could be a chargeable offense to basically try to write into some kind of an ordinance that a violation of those sections of our ordinance book is turning out to creating a public nuisance, then a public nuisance citation could be made to cite the person to appear before the board, the board could levy a fine. If the citizen wants to appeal that to the to the council and then to the court system they would have an opportunity to do that but all of the issues involved with that kind of legislation; you can't just fine someone because they are bad neighbors. Being a bad neighbor is not a criminal offense it is not even a civil offense. It is offensive but it is not an offense you can do anything with. You have to have a method by which you can go. It is going to be a good sized task to put something like that together. We have to get people to serve on this board and I think it will be like most of the other things we have only so many council members can serve on this board because the council is the next step of appeal. You can't have the same people be on the board and then the decision of the board be appealed to the same people. It is a process. I appreciate Chris coming in with this and I will get a copy of this to see what they are doing.

Council Member Sands stated I think this is also good for people who are habitual. If somebody comes in about the same thing over and over and we have records of it then something can be done. I am sure you have a list of the people whose grass we cut every year.

Zoning Compliance Officer Lunsford stated yes.

Law Director Keener stated even our grass cutting ordinances have been challenged. It has never gone anywhere to amount to anything. When the grass gets 7 inches high you get a notice. One notice serves the whole mowing season, you don't get any other mowing notices. The next time the grass gets to high we send our guy out to mow; he charges whatever the rate is for the year, it is bid out every year. If I was the person who got the cut several times a year I would be at the court. I would be complaining about my due process. Our system is great but it is also something that can be taken advantage of. We got to look at these kinds of things. I wasn't going to mention anything about it until Dave and I had a chance to come up with some list of violations that immediately put the person before whatever we are going to call this board. That is my thought and maybe that will move something along.

Council Member Macmann stated it sounds good. I feel like there will be some movement to try to do something.

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Council Member Thompson stated I have a question. So for those people like this gentleman here who takes care of his property maybe we could recognize them in a positive way with a program like a role model or beautification award.

Vice Mayor Madden stated we use to have a program like that.

Mayor Arriola stated Chris.

Council Member Sands stated I have nothing.

Mayor Arriola stated Hillary.

Council Member McClusky stated I have nothing.

VICE MAYOR’S COMMENTS

Vice Mayor Madden stated I would like to say congratulations to Mr. Bundy for paying off his mortgage. Good job and sorry about your neighbors. We are going to try to help you with that.

MAYOR’S COMMENTS

Mayor Arriola stated congratulations to Mr. Bundy again.

ADJOURNMENT

Mayor Arriola stated do I have a motion to adjourn.

Motion by Council Member Madden, second by Council Member Thompson to adjourn the meeting.

ROLL CALL ON ABOVE MOTION: Council Member Joy, yes; Council Member Macmann, yes; Council Member Madden, yes; Council Member McClusky, yes; Council Member Sands, yes; Council Member Thompson, yes; Council Member Arriola, yes; yes; 7 yes 0 no

ALL IN FAVOR. MOTION CARRIED.

Meeting was adjourned at 8:07 p.m.

Approved:

Mayor Date

Clerk of Council Date