

BEECH GROVE CITY COUNCIL MEETING MINUTES
MONDAY, April 1st, 2013

Mayor Dennis Buckley called the meeting to order at 7:00 p.m.

ROLL CALL: Present: City Council Members Ed Bell, Anthony Davidson, Dave Harrison, David Mobley and Mary Stewart. Also present were Mayor Dennis Buckley and Clerk Treasurer Dan McMillan. Absent: City Council Members Kathy Coates and John Jennings, and City Attorney Craig Wiley.

All joined in the Pledge of Allegiance to our flag.

APPROVAL OF MINUTES: Clerk Treasurer McMillan presented the March 4th, 2013 minutes to the council. Councilor Ed Bell pointed out an error that the minutes showed him present for the meeting and he was absent. Councilor Mary Stewart moved to accept the minutes as presented with the correction. Councilor Dave Harrison seconded the Motion, which was approved by unanimous vote.

SPECIAL PRESENTATION: None

PUBLIC COMMENTS: None

COMMITTEE REPORTS:

Greenscape Commission: Tim Latimer reported:

The total number of trees to be planted for Main Street has been reduced from 218 to 124. There will be fewer trees and different species, more expensive trees but overall less cost. The Greenscape Commission will be inspecting the city ash trees for emerald ash borer after the 1st of May when the leaves sprout. Unofficial confirmation has been received that the Tree City USA recertification has been processed.

Please remember to get a permit from the city before planting a tree in the right-of-way. There is no cost for a permit. Permits can be found on the city website Greenscape link.

The Beech Grove Promoters Club will meet at 4th and Main Street on April 20th at 7:30 a.m. for trash pick up in the alleys off Main Street. The next meeting will be April 15th, 6:00 p.m. at the community center.

Redevelopment Commission: Joe Griffin reported:

They are considering workshops for the public. They ask for more council and public input and active involvement. At the next meeting, scheduled for the third Thursday of the month, Jeff Peters (financial advisor) and special guest are going to speak about TIF. Mayor Buckley met about mass transit and would like them to meet with RDC.

Public Safety Committee: Chief Mark Swartz reported:

The last meeting was on March 27. They discussed that 9th and Fletcher will be closed for a week. It will be about 6 weeks before they start work on it.

The Little League parade will be on April 27th. The alternate route will be posted on the city website.

Main Street construction is going as planned.

The walk sponsored by the Beautify Beech Grove Committee is going to be May 11th and leave from Sarah Bolton Park.

Abandoned vehicles – if officers see that there is an abandoned vehicle, they have been advised to give warning to let them know what to expect.

ABC: Nothing to report

Financial Report : Clerk Treasurer Dan McMillan reported bank account balances to council members and posted them online. He also discussed with them the implementation of State Statute IC 36-4-10-7 and the council agreed.

IC 36-4-10-7 Third class cities; clerk’s deputies and employees

Sec. 7. (a) This section applies to third class cities

(b) The clerk shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the city legislative body. The clerk’s deputies and employees serve at the clerk’s pleasure.

(c) If a city owns a utility and the clerk is directly responsible for the billing and collection of that utility’s rates and charges, the clerk shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk’s pleasure.

(d) Whenever the city court judge does not serve as clerk of the city court or appoint a clerk to serve as clerk of the city court under IC 33-35-3-1, the clerk shall serve as clerk of the city court.

As added by P.L. 189-1988, SEC.4. Amended by P.L.33-1998, SEC.10; P.L. 98-2004, SEC.161.

MAYOR’S LIAISON REPORT:

Gary Loveless, Mayor Ballard’s’ Liaison to the Southeastide, presented the following report;

Potholes, high weeds and grass (12 inches or higher) – there is an application for phones that a citizen can take a picture of the pothole, etc and it will automatically tell the city where the problem area is.

Parking meters have changed. In 2010, the revenue was \$339,000; in 2012, revenue was \$2,500,000. Revenue increases are being attributed to new functions; including being able to use credit cards to pay and being able to use phones to extend time.

On October 12th, there is a free event at Marian University “Neighbor Power” convention/seminar. Neighborhoods that have programs that work well will present their programs so other neighborhoods can learn and possibly implement them.

April 22nd U Indy community campus will have a forum from 12:00 p.m. to 2:00 p.m. at the Wheeler Arts Center offering networking, and goal setting.

April is 911 education month.

A soldier from the Southside was killed in Afghanistan; the state has received a request to hold his funeral in Perry Township on Saturday.

Clerk Treasurer McMillan mentioned the construction on Emerson Ave from Shelbyville Rd. to Southport Rd. There have been complaints that the five lane road has a 30 mph speed limit. Mr. Loveless answered that the speed limit will be changed when construction is completely finished. Construction should start again this week. The City of Indianapolis has received complaints too.

Mayor Buckley asked about the electric cars power line info on the chargers. Indianapolis Power and Light is providing the chargers for the electric cars, Mr. Loveless will provide Mayor Buckley with more information.

OLD BUSINESS:

Board of Zoning Appeals Appointment

Nominations: Al Thompson and Joe Haag

Al Thompson was nominated by Councilor Anthony Davidson. Al is a Beech Grove resident of 13 years, his son goes to Central Elementary and wants to make a difference and give something back to the community.

Joe Haag was nominated by Councilor Ed Bell. Joe is a resident of Beech Grove and has worked with Councilor Bell closely on sewer works.

Councilors Bell, Stewart, and Harrison voted for Joe Haag. Councilors Davidson and Mobley voted for Al Thompson. Joe Haag won with three votes.

General Ordinance No. 2, 2013

...an ordinance amending Section 72.23 [Parking Restrictions at Night] of the Code of Ordinances of the City of Beech Grove, Indiana.

Clerk-Treasurer Dan McMillan read the ordinance into the record.

Councilor Bell said that a semi tractor alone is 22,000 which would allow one to park in the streets of Beech Grove. The heaviest dually truck is 7,200 pounds.

Councilor Davidson asked Chief Swartz to speak on where the original numbers came from. Chief Swartz said the BMV said that 26,000 pounds is standard weight. If a person owns a semi, they are listed as a commercial vehicle which would restrict it from being parked on the street.

Councilor Bell said that the residential streets can't handle the weight of semi trucks.

Councilor Harrison mentioned that quantity of vehicles should be considered as well as wight.

Councilor Stewart doesn't like the idea of looking at a semi parked outside of her house, where she would be okay with looking at a commercial van.

Mayor Buckley answered, "you deal with it by weight."

Councilor Harrison said a ¾ ton van could weigh 5,600 to 7,000 pounds.

Councilor Ed Bell moved to amend the ordinance so that the weight restriction of 26,000 pounds would be changed to 7,200 pounds. Councilor Dave Harrison seconded the Motion; which was approved by a 3 – 2 vote.

The vote was as follows:

District 1 Councilor Stewart – yes

District 2 Councilor Bell – yes

District 3 Councilor Davidson – no

District 4 Councilor Jennings – absent

District 5 Councilor Harrison – yes

At-Large Councilor Coates – absent

At-Large Councilor Mobley – no

Councilor Ed Bell moved to add:

(b) Only one commercial vehicle that has business markings weighing less than 7,200 pounds shall be able to be parked in front of a resident’s address.

This would eliminate more than one commercial vehicle being parked

Mayor Buckley asked if that applies to companies working at the address.

Councilor Bell clarified that it was pertaining to the owners’ vehicle.

Councilor Davidson commented that the person driving the truck is not the owner, it’s the company. He also said that two or three people may live in the same house, but all drive commercial vehicles.

Councilor Davidson motioned to table the amendment for another month. Councilor Dave Mobley seconded the motion. Councilor Harrison, Bell, and Stewart voted to move forward. Mayor Buckley said to move forward, but more clarification on second amendment.

Councilor suggested adding a time span that multiple vehicles could be there.

Councilor Bell reread it as “only one commercial vehicle that has markings, weighing less than 7,200 pounds, shall park in front of residence owners address.”

Councilor Dave Harrison seconded the Motion; which was approved by a 3 – 2 vote.

The vote was as follows:

District 1 Councilor Stewart – yes

District 2 Councilor Bell – yes

District 3 Councilor Davidson – no

District 4 Councilor Jennings – absent

District 5 Councilor Harrison – yes

At-Large Councilor Coates – absent

At-Large Councilor Mobley – no

Councilor Ed Bell moved to accept the ordinance with the amendments for Third Reading. Councilor Dave Harrison seconded the Motion; which was approved by 3 - 2 vote.

The vote was as follows:

District 1 Councilor Stewart – yes

District 2 Councilor Bell – yes

District 3 Councilor Davidson – no

District 4 Councilor Jennings – absent

District 5 Councilor Harrison – yes

At-Large Councilor Coates – absent

At-Large Councilor Mobley – no

General Ordinance No. 3, 2013

...an ordinance adding Section 96.10 to Chapter 96 [Garbage and Refuse Collection] of the Code of Ordinances of the City of Beech Grove, Indiana.

Clerk-Treasurer Dan McMillan read the ordinance into the record.

Councilor Mary Stewart moved to accept the ordinance as presented for Third Reading. Councilor Dave Mobley seconded the Motion; which was approved by unanimous voice vote.

General Ordinance No. 4, 2013

*Incorporates the provisions of **Resolution No. 5, 2004** (Establishing the Beech Grove Greenscape Commission), **Special Ordinance No. 8, 2005** (Tree and Flora Ordinance) and **Special Ordinance No. 2, 2008** (Term of Office Amendment)*

Clerk-Treasurer Dan McMillan read the ordinance into the record.

Councilor Mary Stewart moved to accept the ordinance with spelling correction for Second Reading. Councilor Dave Harrison seconded the Motion; which was approved by unanimous voice vote.

General Ordinance No. 6, 2013

...an ordinance that amends Article XV of the City of Beech Grove, Indiana Personnel Manual concerning employee's drivers licenses.

Clerk-Treasurer Dan McMillan read the ordinance into the record.

Councilor Mary Stewart moved to accept the ordinance as read for Second Reading. Councilor Dave Mobley seconded the Motion; which was approved by unanimous voice vote.

General Ordinance No. 7, 2013

...an ordinance that amends Article I: Employee Classification of the City of Beech Grove, Indiana Personnel Manual.

Clerk-Treasurer Dan McMillan read the ordinance into the record.

Councilor Ed Bell asked if there was anything in the current manual about if an employee in a city vehicle has an accident if a drug test is required. Mayor Buckley said that is coming in another ordinance.

Councilor Dave Mobley moved to accept the ordinance as read for Second Reading. Councilor Anthony Davidson seconded the Motion; which was approved by unanimous voice vote.

General Ordinance No. 8, 2013

...an ordinance that amends Chapter 37, Section 37.04 [Holidays] of the Code of Ordinances [for the City of Beech Grove, Indiana] and Article VII of the City of Beech Grove Personnel Manual pursuant to recognized holidays for employees of the City of Beech Grove [Indiana].

Clerk-Treasurer Dan McMillan read the ordinance into the record.

Councilor Mary Stewart moved to accept the ordinance as read for Second Reading. Councilor Dave Harrison seconded the Motion; which was approved by 4-1 voice vote. Councilor Mobley opposed.

BGFD Merit Board Appointment Don Smith's term ends in May and he would like to continue to serve. The Council may nominate other people.

NEW BUSINESS:

Resolution No. 5, 2013

...a Resolution adopting, approving and authorizing an Interlocal Agreement between the City of Lawrence and the City of Beech Grove authorizing the City of Lawrence to adjudicate infractions and ordinance violations in the Beech Grove City Court.

Clerk-Treasurer Dan McMillan read Resolution No. 5, 2013 into the record.

Judge Andrew Wells reported that the language of the ordinance left it open to be used with discretion and that the caseload would have to be 2,000 plus before Beech Grove needed to use Lawrence's court, but at least it would be an option if needed. The court clerk is using a new computer system that has "streamlined" the process of entering tickets and it works with the other Interlocal cities' computer systems.

Councilor Mary Stewart asked to clarify the definition of perpetual in section 8. Judge Wells explained that this arrangement will continue until either Beech Grove or Lawrence notifies the other that it is canceled.

Clerk-Treasurer Dan McMillan asked if Lawrence or Beech Grove would be responsible for filing with the State Board of Accounts and recorded at the recorder's office. Judge Wells answered that there is not written statute and that he assumes Lawrence would be responsible. Clerk McMillan also pointed out a spelling typo on the first page that will be corrected.

Councilor Mary Stewart moved to accept Resolution No.5, 2013 as presented. Councilor Dave Mobley seconded the Motion; which was approved by unanimous voice vote.

General Ordinance No. 9, 2013

...an ordinance that amends Article XIII of the City of Beech Grove Personnel Manual pursuant to drug testing for employees.

Clerk-Treasurer Dan McMillan read the ordinance into the record.

Councilor Davidson commented that he “can’t go on the spot”. Being able to drink liquids on the way over means less time off the clock and returning to work sooner.

Councilor Davidson moved to delete the wording of “employees directed to be tested shall not be allowed to drink any liquids until the test has been conducted.” Councilor Mary Stewart seconded the amendment; which was approved by unanimous voice vote.

Councilor Anthony Davidson moved to accept the ordinance as with amendment for First Reading. Councilor Mary Stewart seconded the Motion; which was approved by unanimous voice vote.

General Ordinance No. 10, 2013

...an ordinance that amends Chapter 90 [Animals], Section 90.27 [Fees] of the Code of Ordinances for the City of Beech Grove [Indiana].

Clerk-Treasurer Dan McMillan read the ordinance into the record.

Councilor Davidson commented that this ordinance “is one sided against dogs” and asked why it was necessary for indoor dogs to be licensed.

Clerk McMillan said “without a doubt we are losing money” when it comes to dog licensing. Typically the city issues around 50 tags at \$2. Buying the tags is \$1.97 and the city must by 200 at a time.

Councilor Stewart said no one is going to knock on doors to check if the dog is licensed there are more dogs barking in her area than cats pooping in the yards.

Councilor Mobley pointed out some stores do both grooming and selling supplies.

An audience member commented that in her area there are more cats than dogs.

Councilor Bell said the license helps to find the owners of a dog if it happens to get out.

Councilor Harrison asked what the reason is for licensing dogs.

Clerk McMillan explained the license is necessary to be a member of the dog park, to make sure the dog is vaccinated, and for the police to find the owner if needed.

Councilor Anthony Davidson moved to table the ordinance until it has been further reviewed and discussed with animal control. Councilor Dave Mobley seconded the Motion; which was approved by unanimous voice vote.

COUNCIL COMMENTS:

Councilor Mobley- No Comment

Councilor Jennings – Absent

Councilor Harrison – No Comment

Councilor Davidson –

“I have a couple of things to say. I’m going to be introducing an ordinance, soon I hope, that will change who sets the agenda. I have had several problems in the past getting things on the agenda just because the mayor refuses to sign them, and I believe in order to create an equal government we have checks and balance for a reason, in order to override that

veto we have that power as a council and we need that ability I'm going to propose that Dan, our clerk treasurer sets the agenda. He is already supposed to set the Board of Sanitation and Board of Works and number the ordinances. I think that this will allow for separation of the branches a little bit better. I've so far failed to get that on the agenda and hopefully will soon.

"Also Judge Wells mentioned something in his comments that struck me as odd. The court didn't have any prosecuting attorney, I assume at the last court hearing, and Judge you might want to correct me if I'm wrong but did you have to dismiss all those cases?"

Judge Wells: "Yes, they were dismissed"

Mayor Buckley: "Were they dismissed or continued?"

Judge Wells: "They were dismissed"

Councilor Davidson: "So that cost the city quite a bit of money I imagine"

Judge Wells: "I couldn't give you an amount right now, but they had to be dismissed, there were...it's inappropriate for me to address this now the city attorney contacted me directly via phone before the trial dates which is inappropriate it needs to be filed in a written motion like all parties are supposed to do and then when the parties appeared in court no one else had been notified which again is also inappropriate. It's not appropriate for me to take action without the other parties being notified and that didn't occur and it's like that in every court it's not a special rule for me, every court is like that and those would follow it so I had no choice and I can't keep dragging people back. Half the people in the place were on the parking ordinance that you guys changed tonight so I'm not sure why those needed to be prosecuted anyway when others were dismissed and others were termed according to files there's some constitutional issues there with someone's rights so there were numerous issues at play."

Councilor Davidson: "I think this sets a bad example. We just had an Interlocal tonight with Lawrence and I would hate for that to happen again, because I assume Southport had no representation there as well."

Judge Wells: "None of the plaintiffs were represented; all of the defendants were there."

Mayor Buckley: "Did the chief ask you to dismiss the parking tickets?"

Judge Wells: "No one asked me to dismiss anything except for there was a request to continue the cases. Anyways, when the city is represented by a city attorney a motion to continue or a motion to dismiss or any kind of motion comes from the attorney because that's whose file appears on behalf of the party. It's not appropriate for the court to discuss the matter with the party if there's an attorney in place. If the attorney wants to take an action the attorney needs to follow the courts rules like the other parties have to. If I'm going to require an individual to file a motion in written motion the city's got to do the same thing. We can't change the rules."

Mayor Buckley: "How much money did the city lose?"

Judge Wells: "I don't have it written down, and I don't know if the city would have won the cases or lost the cases."

Mayor Buckley: "How many cases got dismissed?"

Judge Wells: "How many cases got dismissed...there were fourteen. One of them, excuse me there were twelve, two of them were on defaulted loans, and one was dismissed on other grounds."

Mayor Buckley: "Do people not get hurt?"

Judge Wells: "Do, what?"

Mayor Buckley: “Do people not get hurt? Do people have injuries? Do people sometimes not be able to function...”

Councilor Davidson: “Excuse me I think I have the floor”

Judge Wells: “I don’t understand what you are asking”

Councilor Davidson: “I think it shows a lack of leadership on the city by not getting prepared, if somebody has an injury that’s thing, but to not have...”

Mayor Buckley: “It’s not funny Cathy”

Councilor Davidson: “Excuse me I think I have the floor”

Mayor Buckley: “She asked me a question”

Councilor Davidson: “Again I have the floor”

Mayor Buckley: Go ahead”

Councilor Davidson: “I was saying, if somebody gets injured that’s one thing, but to not be prepared for something as crucial as something like this or as we obviously needed some legal guidance tonight especially as our parking enforcement ordinance came through tonight we had a clear guidance from the person that enforces it yet we ignored that. So tonight I think we failed as a council. I think it’s ridiculous that we have a chief, we have an entire police department that we can go to as a reference and yet we ignore them. It’s absurd. I am absolutely at a loss for words right now. That’s all I have.”

Councilor Bell – “Well I would have thought it would be nice if we had the judge come up during the time that we were discussing that one ordinance that we talked about so that way we don’t have to go back and rewrite it again, but anyway. That’s all the comments I have.”

Councilor Stewart- Feels the judge should be notified of the agenda so that he can give legal input so as to not waste time passing ordinances that can’t be enforced. Would like to strike the parking ordinance that was passed, and that the meetings should be held more professionally.

Councilor Coates – Absent

Mayor Buckley –

“I have worked for the city for 30 years. Before I worked for the city the mayor set the agenda. It has been in the ordinance for over 40 years. It will continue to be the president until I am no longer mayor. And I will, do not do that to the next mayor because the next mayor needs to be able to control the agenda as well. Anthony we talked about this the other day. I have been very patient with you. You have introduced some ordinances that were out of this world. Golf carts twice chickens gold fish fishing in the creek, what ordinance did you introduce that I have not put on the agenda? Tell me.”

Councilor Davidson: “You have the floor mayor”

Mayor Buckley: “Tell me”

Councilor Davidson: “Do you have them?”

Mayor Buckley: “No I don’t”

Councilor Davidson: “I’ve got copies of e-mails, and so does RTV 6”

Mayor Buckley: “You...you...submitted that ordinance that takes the executive officers’ ability to set the agenda to give it to the clerk that will not be on this agenda as long as I am mayor”

Councilor Davidson: “What you’re doing right now is you’re breaking the system of checks and balances. We have the power to override that. And yet you won’t allow that”

Mayor Buckley: “No, I will do the same as every mayor before me”

Councilor Davidson: “I’m done, I’m done”

Mayor Buckley: “So that will not be heard. The clerk is clear on my position so does the department head.”

The next Beech Grove City Council meeting will be Monday, May 6th, 2013, 7:00pm at the Hornet Park Community Center.

ADJOURNMENT:

Councilor Stewart moved to adjourn. Councilor Harrison seconded the Motion. The meeting was adjourned at 8:35 p.m.

Dennis Buckley, Mayor

Dan McMillan, Clerk–Treasurer

Minutes prepared by: Brenda Michael