

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

1

The Municipality of Germantown Council met in regular session on Monday, April 20, 2009 at 7:00 p.m. in the Municipal Building Council Chambers.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited.

MEMBERS PRESENT:

The following members were present at the Call to Order: Mayor Theodore Landis, Mr. Scott Johnson, Mr. Terry Johnson, Mr. Jim Lawson, and Mr. Edward Schwaberow.

MEMBERS ABSENT:

The following members were absent at the Call to Order: Mrs. Jeanne Gentry.

ALSO PRESENT:

Also present were Tom Schiff, Law Director; Scott Brown, Police Sergeant; Steve Fugate, Water Department Supervisor; Bev Campbell, Assistant EMS Chief; Anna M. Sizemore, Acting Village Manager/Clerk of Council and one visitor.

APPROVAL OF MINUTES:

None.

PUBLIC RECOGNITION:

None.

CITIZEN'S FORUM:

Robert Tracy at 50 S. Water Street stated he has been maintaining the vacant lot next to his home for the past ten years, and would like to be permanently responsible for the property. A large tree is damaging his property that is on the vacant lot. He would like to trim and maintain the tree.

Robert Tracy stated he has asked the past three City Managers for assistance regarding this property, and each one has failed to help.

Mr. Scott Johnson questioned who owns the property.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

2

Robert Tracy stated the original plan was for it to be a street for the new development behind the property. This will never happen because they have built a home in the path of the street.

Mr. Scott Johnson stated the Village needs to proceed with the proper steps and release the land to Robert Tracy.

Mr. Schwaberow stated an ordinance would have to be completed, along with the proper easements.

FINANCE DIRECTOR'S REPORT:

Mrs. Jamison gave the March 2009 Budget Report.

Mr. Scott Johnson stated he is very disturbed that the Village bills are being paid late, and asked if Mrs. Jamison would look into this matter.

ACTING MANAGER'S REPORT:

Steve Fugate stated he has received eight bids for the water tower. He is hoping to still receive bids, the deadline is April 30th.

Steve Fugate stated he would like input on the logo for the water tower.

Steve Fugate stated he wanted to thank Mike Kuhn and Brian Wafzig for designing the proposed tower logos.

Steve Fugate stated he spoke with Tom Borck with Poggemeyer about the Dry Run estimate.

Mr. Schwaberow questioned if the easements with Community Harvest Church has been settled.

Mrs. Sizemore stated that the Law Director was looking over the agreement for the easements.

Steve Fugate stated he is looking into solar panels to heat the pool. These panels should help with the propane bill for the pool.

Steve Fugate reported the Water Department has had 51 service calls so far in April.

Mrs. Sizemore stated that the Web Site Committee met with Mr. Dowden in March concerning the Village web site. They are welcoming ideas and comments.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

3

Mrs. Sizemore stated that Channel 5 would be advertising Saturday Night Out.

Mr. Schwaberow questioned if the Village would be putting up street barricades.

Mrs. Sizemore stated the Village will be putting out barricades and will move the stage.

Mrs. Sizemore stated the storm damage repair has been completed at 1934 Dayton-Germantown, the chlorine building and the Municipal Building. The well field, the Depot and the Fire Station still need to be completed.

Mrs. Sizemore stated the income tax collection went very well this year. She wanted to thank Sharon and Rebecca for all their hard work.

Mrs. Sizemore stated that interviewing for the part-time clerk would start this week; they had a total of 39 applications.

Mrs. Sizemore stated the Utility Office would be closed April 21-22, due to training on the new software.

Mrs. Sizemore stated there were complaints about the Village trashcans.

Mr. Scott Johnson stated he also had received complaints.

Mr. Schwaberow stated the problem seems to be on Main Street.

Mrs. Sizemore stated the cans are being emptied three times a week when the contract is for once a week. The dumpsters are being filled with personal trash and construction debris.

Mrs. Sizemore announced the Economic Development Committee and Senior Oversight Committee each need a member.

Mrs. Sizemore stated she will try to have the minutes caught up by the end of May.

Mr. Schwaberow stated it was a growing problem. This is an obligation of the Clerk per the Charter.

Tom Schiff stated he was unable to find anything in the Charter regarding the minutes. However, it is mentioned in the Administrative portion.

Mr. Schwaberow stated that the minutes of each meeting are as important as the financial report.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

4

Mr. Lawson stated that Mrs. Sizemore is Clerk of Council and Acting Manager; this is a lot for one person to do.

Mrs. Sizemore stated she not only does Council minutes, but also many other Committee minutes.

LAW DIRECTOR'S REPORT:

Tom Schiff has passed along the Council's concerns to the Saturday Night Out Committee. The Village is not liable during the Saturday Night Out event.

POLICE CHIEF'S REPORT:

None.

FIRE CHIEF'S REPORT:

Bev Campbell, Assistant EMS Chief stated that two EMS personnel attended a mock disaster at the Middletown Airport.

Bev Campbell stated that on April 18th the Germantown Fire-EMS attended an event at McDonald's. They displayed the equipment and informed the children on fire safety.

Bev Campbell stated the EMS department has hired three new part-time people who will start in May.

Bev Campbell stated the pancake breakfast would be held April 25th at the Senior Center. They are looking for volunteers to help with the breakfast.

Bev Campbell stated she has been with the EMS department for over 28 years. She asked for everyone's support on the upcoming levy in May. Issue # 5 will be on the ballot May 5th.

Bev Campbell gave a presentation supporting the upcoming levy.

MAYOR'S REPORT:

Mayor Landis attended the groundbreaking for the Austin Interchange. This project will help with jobs in the area.

Mayor Landis stated that a representative from Seth Morgan's office, our State Representative, would like to attend a Village Council Meeting in May. This would allow the Council to speak with him one on one.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

5

Mayor Landis stated he received a letter from Joseph Litvin, Montgomery County Engineer, concerning Resolution 84-653, which was passed by the Montgomery County Commissioners. These funds will be distributed for the repair and replacement within the Municipalities and Villages.

Mayor Landis stated that Steve Fugate and he would attend a safety awareness meeting on April 30th about emergency pipelines.

Mayor Landis stated he received a letter from John Husted concerning the State Operating budget.

Mayor Landis stated he attended the Mayor and Manager's meeting on April 8th. They discussed Senate Bill 129, regarding money paid by cell phone users.

Mayor Landis stated he received a letter from Richard Coudray concerning House Bill 9. The training for House Bill 9 will be held at Wright State on November 11th.

COUNCIL MEMBER'S REPORT:

Mr. Scott Johnson stated he had received calls regarding the pool management company. He is hoping that there is more control over the staff of the pool.

Mr. Terry Johnson questioned if a date had been set for Mr. Seth Morgan to attend the Village Council meeting.

Mayor Landis stated that a date had not been set yet, but hopefully sometime in October.

Mr. Terry Johnson stated his thoughts and prayers go out to Mrs. Gentry.

Mr. Lawson stated he attended the Fire Oversight meeting.

Mr. Lawson stated he had driven around the Village and it looks awful. NIC needs to be fired. He stated one property has not had gutters on their home for 10 years. He suggested sending two letters and then turn the case over to the prosecutor.

Mrs. Sizemore stated NIC does send letters to each property with issues, but she does not receive a copy of the letters sent. She stated that NIC sent a lot of letters recently, when they did the spring sweep.

Mr. Terry Johnson stated the Village needs to implement new codes to solve the problems.

Mr. Schwaberow stated he attended a Economic Development meeting on April 15th. He stated that Economic Development needs a new member.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

6

Mr. Schwaberow stated the Economic Development members discussed Saturday Night Out, and feel it is beneficial to the Village. He stated the restaurants are offering dinner specials on these nights and doing well.

Mr. Scott Johnson stated the only businesses open on Saturday Night Out are the restaurants and the bars. The other businesses are not staying open.

Mr. Schwaberow stated the other businesses in town are loosing out. If the businesses were open they may get more traffic that night and at a later date.

Mr. Schwaberow announced that a BZA meeting will be held April 21st. They will be discussing the Masonic Lodge on Main Street; a conditional use request for a Military Museum has been brought up.

Mr. Schwaberow questioned if the Village has to pay for the announcement for a new Council member made in the Press under Legal Notices.

Mr. Scott Johnson stated no.

Mr. Schwaberow stated he would have liked to see the article printed larger. He was concerned that the response would be low.

Mrs. Sizemore stated she had received three responses.

Mr. Schwaberow questioned what happens now to Rudy's Restaurant, after the last Public Hearing.

Mr. Lawson stated that the problem would be if a neighboring business, within 200 feet, would have a problem.

Mr. Schwaberow questioned if Mrs. Sizemore had sent notices to just business owners around Rudy's or the property owners also.

Mrs. Sizemore stated she mailed notices to both property owners and business owners.

Mr. Schwaberow stated he had received concern regarding Rudy's outdoor patio area.

Mr. Scott Johnson stated the only disapproval has been by e-mail to him. No one has attended the Public Hearings and there have been no response to notices sent to each business owner. He stated the Village and Council handled it correctly, and Council should only vote on the information they have in front of them.

Mr. Lawson agreed with Mr. Scott Johnson regarding Rudy's outdoor patio area.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

7

Mr. Schwaberow stated he had concern regarding the petitions that were signed by the neighboring businesses. The petitions themselves did not have any header stating that they were in favor of the proposal from Rudy's.

Mr. Terry Johnson stated the petition was very general. He stated that Council only asked Rudy to contact the neighboring businesses.

Mr. Terry Johnson stated that he agreed with Mr. Scott Johnson. If only two businesses have a problem with the proposal from Rudy, and no other businesses have stepped forward regarding this issue, then Council needs to make a decision.

Mr. Lawson stated that Rudy deserves an answer, sooner than later.

Mr. Scott Johnson stated he was in the area of Rudy's restaurant earlier in the day, and the area in question was empty.

Tom Schiff questioned if Rudy had submitted a plan that Council was ready to approve.

Mr. Terry Johnson stated he submitted plans for zoning but the utilities and other issues still need to be addressed.

Tom Schiff stated until a final plan is submitted Council should not make a final decision.

Mr. Terry Johnson stated that right now Rudy was just looking for a consensus.

Mr. Schwaberow stated once the Village and Council puts stipulations on the project, he may not want to follow through with the project.

Mr. Schwaberow stated he has concerns what will happen if Rudy's restaurant is not successful and the sidewalk will have to be put back to its original state.

Mr. Terry Johnson stated an agreement would have to be written stating that Rudy would return the sidewalk to its original state.

Tom Schiff stated the Village has the right to require Rudy return the sidewalk to its original state.

Mayor Landis stated that there are two properties in the Village that have fences in the right-of-way, but if that right-of-way is ever needed legal documents state they must remove the fence.

Mr. Schwaberow questioned if Rudy ever saw the letter from Poggemeyer regarding this issue.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

8

Mrs. Sizemore stated she had never seen a letter from Poggemeyer regarding Rudy's project.

Mr. Schwaberow stated that the letter was received when Randy Bukus was here concerning the details.

Mrs. Sizemore stated she has the file from Mr. Bukus's office, but there is no letter from Poggemeyer. She stated she would call Peggemeyer to see if they may have a copy of the letter in question.

LEGISLATION:

Introduction:

Mayor Landis introduced Ordinance No. 09-15.

AN ORDINANCE TO AMEND SECTION 921.03 (e) OF THE STREETS AND PUBLIC SERVICES CODE OF THE CODIFIED ORDINANCES OF THE VILLAGE OF GERMANTOWN TO INCREASE THE SEWER TAP IN FEES.

MOTION: Mr. Scott Johnson motioned to adopt Resolution No. 09-15, second by Mr. Lawson.

Mr. Terry Johnson questioned if this was a CPI issue.

Mr. Schwaberow stated every new home that is built has to pay this rate adjustment fee for Franklin Regional.

Mr. Terry Johnson stated he would like to revisit the Franklin Regional issues in an upcoming work session.

ROLL CALL: Mr. Scott Johnson, yes; Mr. Terry Johnson, yes; Mr. Lawson, yes; Mr. Schwaberow, yes; Mayor Landis, yes. 5-yes, 0-no. MOTION CARRIED.

Mayor Landis introduced Ordinance No. 09-16.

AN ORDINANCE TO AMEND SECTION 921.21(a) OF THE STREETS AND PUBLIC SERVICES CODE OF THE CODIFIED ORDINANCES OF THE VILLAGE OF GERMANTOWN TO INCREASE THE SANITARY SEWER RATE.

MOTION: Mr. Scott Johnson motioned to adopt Resolution No. 09-16, second by Mr. Schwaberow.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

9

Mr. Terry Johnson stated he would like Rebecca Jamison to give an explanation regarding Ordinance No. 09-16.

Rebecca Jamison stated the operating expenses for the sewer fund have not kept up with the operating fund. The sewage treatment that has been paid to Franklin Regional has increased in one year 25%. The sewer rates raised were increased over the past few years, but before that increase nothing had been done. The expenses have increased more than the CPI.

Mr. Terry Johnson stated this increase is a necessity.

Mayor Landis stated the Village cannot continue to take funds from the general fund to pay the sewer rate.

Public Hearing:

None.

MEMBERS ABSENT:

Mr. Lawson motioned to excuse Mrs. Gentry, second by Mr. Terry Johnson.

ROLL CALL: Mr. Lawson, yes; Mr. Schwaberow, yes; Mr. Scott Johnson, yes; Mr. Terry Johnson, yes; Mayor Landis, yes. 5-yes, 0-no. MOTION CARRIED.

OTHER BUSINESS:

MOTION: Mr. Terry Johnson moved to adjourn to executive session to discuss personnel matters regarding the Village Manager, second by Mr. Schwaberow.

ROLL CALL: Mr. Schwaberow, yes; Mr. Scott Johnson, yes; Mr. Terry Johnson, yes; Mr. Lawson, yes; Mayor Landis, yes. 5-yes, 0-no. MOTION CARRIED.

Mayor and Council adjourned to Executive Session at 8:40 p.m.

EXECUTIVE SESSION:

PRESENT:

The following members were present at the start of the Executive Session: Mayor Theodore Landis, Mr. Scott Johnson, Mr. Terry Johnson, Mr. Jim Lawson, and Mr. Edward Schwaberow.

**MUNICIPALITY OF GERMANTOWN COUNCIL
MINUTES OF MEETING HELD MONDAY APRIL 20, 2009**

10

MEMBERS ABSENT:

Mrs. Gentry was absent.

ALSO PRESENT:

Also present was Tom Schiff, Law Director.

ADJOURNMENT:

There being no further business to come before the Council, Mr. Scott Johnson moved to adjourn the meeting.

The meeting adjourned at 9:30 p.m.

Respectfully Submitted,

Kelli R. Sanders-Novak
Clerk of Council

Theodore E. Landis
Mayor