

**WARREN CITY COUNCIL
REGULAR MEETING
JULY 18, 2016 – 7:30 PM**

OPENING OF MEETING

Mayor Cashman presided over the July 18, 2016 regular meeting of Warren City Council in Council Chambers of the Municipal Building and opened the meeting with the Pledge of Allegiance.

ROLL CALL

Members present and responding to roll call were: Mayor Maurice Cashman, Elissa Davis, Gregory Fraser, Philip Gilbert, Richard Kolcharno, John Lewis (via phone), and James A. Zavinski, Sr. Members of City Staff present were Mrs. Freenock, Mr. Hildebrand, Mr. Holtz, Mrs. Leary, Ms. Nau, Chief Pascuzzi, Mrs. Risinger, Mr. Sceiford, and Chief Zydonik as well as Police Officer N. Bond.

APPROVAL OF MINUTES

Upon motion by Mr. Zavinski and second by Mr. Kolcharno, the minutes of the June 20, 2016 Regular Meeting were unanimously approved.

RECOGNITION OF VISITORS

Mayor Cashman welcomed all visitors. Present were:

- Pauline Steinmeyer: City resident regarding referendum questions
- Cynthia Brader: City resident regarding outdoor burning
- Kylie Fischer: Times Observer reporter

(See also May 16 and June 20, 2016 Council meeting minutes)

Ms. Cynthia Brader addressed Council regarding outdoor burning regulations. Ms. Brader referenced the Council action taken at the June 20, 2016 regular meeting in response to the petition which she submitted to Council. She asked that Council reconsider this matter and enact a compromise which would permit outdoor burning only on certain days such as odd or even calendar days. She asserted that such a regulation would allow those who enjoy outdoor burning to continue to do so while providing relief on the alternate days for those who find the smoke and odors from fires objectionable. Ms. Brader indicated that she has been contacted by many residents who support her views; however, they have stated their reluctance to speak out in a public forum such as a Council meeting.

Ms. Brader left the meeting at this point.

CORRESPONDENCE

Council members acknowledged receipt of correspondence from Governor Tom Wolf congratulating the City upon its receipt of the Pennsylvania Wilds 2016 Great Places Award.

COHEN LAW GROUP: WIRELESS FACILITY MANAGEMENT

Mrs. Freenock noted discussion at the April 18, 2016 regular meeting of Council pertaining to the Cohen Law Group's proposal to perform services regarding Wireless Facility Management. At that meeting, Council requested that the Cohen Law Group be invited to make a presentation to further outline the proposal and to answer Council's questions. Mrs. Freenock stated that the firm's availability for an in-person presentation did not coincide with Council meeting dates; however, Atty. Dan Cohen participated in this meeting via conference call.

Mrs. Freenock noted that in recent communications, Mr. Cohen advised her that a wireless communications contractor which performs installations for a large mobile carrier has been aggressively pursuing locations within municipal rights-of-way throughout Pennsylvania.

Mrs. Freenock advised Council that the Planning Commission (June 15, 2016 regular meeting) discussed the placement of wireless communications facilities within the City and voted to recommend that language be drafted to amend the Zoning Ordinance in order to provide for antennae to be placed on buildings within the C-1 and C-2 Commercial Districts and to allow wireless towers only in areas zoned for Industrial use and only as a Special Exception which must be approved by the Zoning Hearing Board.

It was noted that an ordinance pertaining to wireless facilities would address facilities in the public rights-of-way; preserve the character of the City's neighborhoods, including the Historic District; incorporate Federal Communications Commission (FCC) requirements, as well as new federal and state laws; provide for removal of towers which come to no longer be in use; and impose fees for the use of rights-of-way by wireless carriers.

Atty. Cohen explained that DAS (Distributed Antennae System) are "mini" towers and antennae utilized to boost the capacity to meet the demand for wireless and broadband service. Such towers and antennae have a range of only one-quarter to one-half mile and, therefore, contractors seek to install multiple towers. It was indicated that the target locations for such towers are generally in R-2 Residential Zoning Districts. It was noted that the City received an initial inquiry regarding installation of a DAS that would be one hundred twenty (120) feet in height with a base diameter of forty (40) inches and would be located within the right-of-way on Conewango Avenue between Pennsylvania Avenue and Lexington Avenue.

Atty. Cohen further explained that, at present, DAS contractors may obtain a "Public Convenience" permit from the Pennsylvania Public Utility Commission (PUC) and, absent a municipal ordinance regulating such installations, may then construct DAS facilities within the public rights-of-way. He noted that the PUC is currently reconsidering its stance as to whether DAS facilities may be considered a Public Convenience. Atty. Cohen indicated that ownership of DAS towers varies as some contractors retain ownership and lease towers to a wireless provider while others transfer ownership to a wireless provider (i.e. Verizon, Sprint, T-Mobile).

Mr. Fraser suggested that consideration be given to requiring provision of a performance bond to insure that towers which become obsolete and/or are no longer in use are properly removed. Atty. Cohen indicated that this could be incorporated into an ordinance.

Atty. Cohen outlined the process for developing an ordinance for Wireless Facility Management and indicated that, upon completion of a first draft, the ordinance should be advertised. This action would place the ordinance under the Pending Ordinance Doctrine and would, therefore, prohibit the initiation of any DAS installations until such time as a final ordinance is adopted.

Mr. Fraser made the motion to accept the Cohen Law Group Proposal for development of a Wireless Facility Management Ordinance. The motion was seconded by Mr. Kolcharno and carried unanimously.

ORDINANCE NO. 1873: LIMITING TRUCKS & CONSTRUCTION EQUIPMENT IN THE MIDTOWN PARKING LOT

Mr. Holtz noted that the Midtown Parking Lot recently underwent a complete rehabilitation project. In order to preserve and extend the life of the improvements made to this property, particularly the asphalt pavement, it was recommended that access by large trucks and construction equipment be restricted.

Upon motion by Mr. Kolcharno and second by Mr. Zavinski, Council members voted unanimously to approve the ordinance limiting use of the Midtown Parking Lot by large trucks and construction equipment.

ORDINANCE NO. 1874: REMOVAL OF LIBERTY STREET LOADING ZONE

Chief Zydonik noted that Ordinance No. 1759, enacted in 2007 established a Loading Zone on a portion of Liberty Street between Second and Third Avenues and also provided for a 30-minute parking time limit within the Loading Zone. The Streetscape plans for this area call for the elimination of the Loading Zone which will result in additional parking spaces being available.

Mr. Fraser made the motion to adopt the ordinance repealing Ordinance No. 1759 in its entirety and thereby removing a Loading Zone located on Liberty Street and amending Ordinance No. 1847 to establish the parking time limit for spaces created in the former Loading Zone. The motion was seconded by Mr. Kolcharno and carried unanimously.

ORDINANCE NO. 1875: PARKING RESTRICTIONS ON FOURTH AVE. AT LAUREL ST.

Chief Zydonik stated that the City received a request from Whirley Industries regarding safety concerns at the intersection of Fourth Avenue and Laurel Street. The stated concern was the limited site distance for motorists traveling on Laurel Street which is the STOP street at this intersection.

It was further stated that, in accord with PennDOT requirements, a traffic study was conducted at the intersection and the findings indicate that a change in parking regulations in order to improve the site distance is warranted. It was suggested that the “No Parking” area west of Laurel Street on both the north and south curbs of Fourth Avenue be extended in order to improve the site distance for motorists traveling on Laurel Street.

Mr. Zavinski made the motion to approve the ordinance providing for extension of the “No Parking” area on Fourth Avenue west of Laurel Street on the north and south curbs. The motion was seconded by Mr. Kolcharno and carried unanimously.

AGREEMENT: ADVANCED DISPOSAL FOR EXTENSION OF RECYCLING COLLECTION

Mr. Holtz noted that in 2013, the City entered into a three-year agreement with Advanced Disposal Services Western PA, Inc. for the curbside collection of recyclable materials. This agreement expired on April 30, 2016. City Staff is presently researching multiple collection options prior to the bidding of a new contract. Therefore, City Staff requested that Council extend the existing agreement to December 31, 2016. The City previously contacted Advanced and it was indicated that they would be amenable to such an extension with the extension to provide for an eight cent per unit increase, commencing on July 1, in the rate currently paid by the City.

Mrs. Freenock noted that a prior recycling fee increase would be sufficient to cover the eight cent increase requested by Advanced.

Mr. Fraser made the motion to approve the Agreement for extension of the Agreement with Advanced Disposal Services Western PA, Inc. for the curbside collection of recyclable

materials through December 31, 2016. The motion was seconded by Mr. Gilbert and carried unanimously.

DISPOSITION OF SURPLUS EQUIPMENT

Mr. Holtz noted that Council periodically authorizes the disposition of supplies, materials, and equipment that are no longer suitable or necessary for City operations. It was requested that the following items, which have each been replaced, be approved for disposition in accordance with the City Code:

- 2010 Ford Crown Victoria Police Cruisers (2)
- 2006 ODB LCT 650 Leaf Machine (1)
- 2004 ODB LCT 650 Leaf Machine (2)

Upon motion by Mr. Zavinski and second by Miss Davis, Council voted unanimously to approve the disposition of the above-listed items in a manner permitted by City Code.

PROPOSED REFERENDUM QUESTION: PUBLICATION OF ORDINANCES AND FINANCIAL REPORTING

Mrs. Freenock stated that Section 702 of the City’s Home Rule Charter requires that a notice of ordinances adopted by Council be published in a newspaper of general circulation within ten (10) days of the date of adoption. It was recommended by City Staff that this provision be amended to provide for publication within ten (10) business days of adoption.

Additionally, Section 702 requires that any ordinance which imposes or establishes penalties be published in its entirety. Publication of an ordinance in its entirety can be extremely costly. However, at the time that the Charter was drafted there were no other means of providing the full text of an ordinance other than via publication in the newspaper or in-person viewing of the ordinance. With the technology available today, the text of an ordinance may be made readily available to the general populace via the City’s website. Therefore, it was recommended that Section 702 of the Charter be further amended to remove the requirement that those ordinances which impose penalties be published in their entirety in a newspaper of general circulation and instead require that such ordinances be posted to the City’s website until such time as they appear on the website of the company which performs the Codification of City Ordinances. It would continue to be required that an Ordinance Notice be published in the local newspaper with such notice to include a statement that the ordinance does impose or establish penalties and that the full text of the ordinance may be viewed at the Office of the City Clerk or via the City’s website (which also contains a link to the Codified Ordinances).

Section 1012 of the Charter requires “...the financial report, including the audit, to be completed by the last day of the fourth (4) month following the fiscal year being audited.” Since adoption of the Home Rule Charter, there have been significant changes in reporting requirements, particularly those invoked under the Government Accounting Standards Board (GASB) Statement No. 34. Typically, it is not possible to close the books from the preceding year until March of the current year. Therefore, in order to provide sufficient time to produce financial reports which are accurate and reflective of the prior fiscal year, it was recommended that the completion date for financial reports pertaining to the prior fiscal

year be extended to the last day of the sixth (6) month following the fiscal year being audited.

Prior to incurring any legal expenses related to preparing these issues for referendum in the November General Election, City Staff requested Council support of the foregoing proposals.

Mr. Fraser made the motion to authorize City Staff to proceed with development of an ordinance for the placement of referendum questions on the November General Election ballot pertaining to: (1) Publication of ordinances and (2) Completion date for prior fiscal year financial reports. The motion was seconded by Mr. Kolcharno and carried unanimously.

Pauline Steinmeyer addressed Council and expressed her concerns that, if the foregoing changes to the requirements for publication of ordinances are made, residents would not be aware of new ordinances. Mrs. Freenock emphasized that it would continue to be required that a legal notice be placed in the newspaper with the notice to specify the ordinance number and subject. However, rather than the full text of any ordinance which establishes fines and/or penalties being published in the newspaper, the newspaper notice would state that the ordinance provides for fines and/or penalties along with a statement as to where the full text of the ordinance may be viewed. Mrs. Freenock further stated that a copy of the ordinance would be provided to any resident who does not have internet access and is unable to visit the Municipal Building to view the ordinance.

Mr. Fraser noted the City's obligation to provide reasonable notice of ordinance enactments at a reasonable cost.

SPECIAL MEETING

Mayor Cashman called for a special meeting to be held in Council Chambers at 6:00 PM on Monday, August 1 for further discussion regarding the proposed referendum questions.

DEPARTMENT REPORTS – JUNE, 2016

The following reports were presented for Council's review:

- Police Department
- Fire Department
- Department of Public Works
- Building Codes Department
- Community & Economic Development

APPROVED MINUTES OF BOARDS AND COMMISSIONS

Council acknowledged receipt of the following approved minutes:

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|----------------------------|---|--------------|-----------------|
| Planning Commission | – | May 18, 2016 | Regular Meeting |
| Street Landscape Committee | – | May 17, 2016 | Regular Meeting |

ADJOURNMENT

There being no further business to come before Council, Mayor Cashman declared the meeting adjourned.