

**WARREN CITY COUNCIL
SPECIAL MEETING
AUGUST 4, 2014 – 5:00 PM**

OPENING OF MEETING

Mayor Cashman presided over the August 4, 2014 special 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, Dr. Howard Ferguson, Gregory Fraser, Samuel Harvey, Richard Kolcharno, John Lewis, and James A. Zavinski, Sr. Mrs. Freenock, Mr. Hildebrand, Mr. Holtz, Mrs. Leary, Mrs. Risinger, Ms. Stapleford, and Chief Zydonik of City staff were also in attendance.

RECOGNITION OF VISITORS

Mayor Cashman welcomed all visitors. Present were:

- Craig Scalise, 504 Market Street: Crary Art Gallery Sign Permit Application
- Brad Conquer, 602 Market Street: Crary Art Gallery Sign Permit Application
- Tom Paquette: Crary Art Gallery Sign Permit Application
- Pat Evans: Crary Art Gallery Sign Permit Application
- Rene Davis, 509 Liberty Street: Crary Art Gallery Sign Permit Application
- Ray Pring, Jr.: Crary Art Gallery Sign Permit Application
- Will Champlin, 512 Market Street: Crary Art Gallery Sign Permit Application
- Pauline Steinmeyer, 18 Prospect Street: Observing (arrived during the meeting)
- Barbara Scott, 606 Homestead Place: Observing
- Josh Cotton, Times Observer reporter

CORRESPONDENCE

Mayor Cashman presented a letter in which he advised Council of his intent to perform marriage ceremonies. An accounting of any fees received will be provided each quarter in which fees are received.

Mrs. Freenock presented correspondence from Paul and My Ignatius, 505 Market Street, indicating that they do not object to the placement of the proposed sign at the Crary Art Gallery. They further stated that they believe the sign serves to enhance the overall awareness of the arts and culture provided by the Gallery.

Mrs. Freenock reported that she was contacted via phone by Nancy McKee, 534 Oakland Drive, who stated that she objects to the size of the Crary Art Gallery sign and believes that a marquee sign would be gaudy and would detract from the area.

CRARY ART GALLERY, INC.: APPLICATION FOR PERMANENT SIGN PERMIT – MARQUEE SIGN

Mrs. Freenock stated that the Crary Art Gallery, Inc. submitted an application to the City for approval of a permanent marquee sign at 511 Market Street. This matter was discussed, and tabled, by Council at the regular meeting of July 21, 2014.

The following were again presented for Council's information:

Ordinance No. 1796 (referred to as the Sign Ordinance) defines a Marquee Sign as any sign attached to a marquee for the purpose of identifying a movie theater or similar place of entertainment.

Section 7 of Ordinance No. 1796, requires City Council review and approval of a marquee sign. Per the ordinance, City Council shall review the application as to the following criteria:

Marquee Signs – City Council shall:

- Ensure the proposed sign is appropriate to the style, period, type, size, and scale of the building for which it is proposed.
- Weigh testimony from other property owners in the vicinity regarding the merits of the sign.
- Weigh whether the sign will enhance the traditional town character of Warren or detract from it in determining whether the sign shall be permitted.

Ray Pring, Jr., Board of Directors member, represented the Crary Art Gallery, Inc.

Mr. Lewis inquired as to whether the Crary Art Gallery sells artwork and suggested that a zoning variance would be required to do so within an R-3 Zoning District. Mr. Pring responded that on occasion the Gallery facilitates sales on behalf of the artists who have works on display and further stated that there are no “off the wall” sales of artworks.

Council received the following comments regarding the marquee sign application:

- Chris Enger (reported by Councilman Harvey): Stated that he is in support of the sign so long as lighting is turned off by 9:00 PM.
- Brad Conquer, 602 Market Street: Stated that he believes the prior sign was fine and the addition of a marquee sign would be fine.
- Rene Davis, 509 Liberty Street: Stated that her home does not face the Gallery but is in the neighborhood. She stated that she fully supports the marquee sign.
- William Champlin, 512 Market Street: Stated that the prior sign was fine and that he would be in favor of lighting being turned off at 9:00 PM. Mr. Champlin expressed concern as to whether the marquee sign would advertise Gallery activities only or if it might be utilized for other advertising purposes as well.
- Craig Scalise, Horton House Bed and Breakfast, 504 Market Street: Stated that he understands that the prior sign did not meet the size requirements but did not find it offensive. He further stated that he believes that backlit lettering is tasteful but expressed concern regarding motorists’ ability to read a marquee sign as proposed.

Mr. Pring disclosed that Brad Conquer is a member of the Crary Art Gallery Board of Directors and that Rene Davis is his spouse (see comments above). Mr. Pring distributed information regarding the Gallery’s sign application and indicated that he previously submitted correspondence to Andrea Stapleford, City Solicitor, in which he cited state law and specific cases.

Mr. Pring referenced the portion of the Sign Ordinance definition of a “Marquee Sign” which states “any sign attached to a marquee for the purpose of identifying a movie theater or similar place of entertainment.” and asserted that the Crary Art Gallery is a “similar place of entertainment.” He further stated that a movie theater shows limited productions for a limited time and stated that the Gallery is similar in respect to its rotating shows.

In response to comments from the public, Mr. Pring indicated that the proposed marquee sign letters would be seven inches high and would be mounted on dark eight-inch panels with the letters to be backlit. He further stated that it would be possible to set the lighting to go off at 9:00 PM or 10:00 PM.

Mr. Lewis made the motion that this application be denied based on the fact that the marquee is not applicable to that area as an R-3 Zoning District and that supports the denial of the variance that was denied by the Zoning Hearing Board. The motion was seconded by Mr. Kolcharno.

Mr. Harvey stated that the argument pertaining to the zoning district is irrelevant and further noted that the Gallery did not apply for a Marquee Sign permit the first time. He further noted that a marquee permit is permitted in all zoning designations and asked that the two issues not be confused.

Mr. Fraser noted that the application before Council is to permit a Marquee Sign. He further noted that the City's ordinance presumes the existence of a marquee to which a sign is attached. Therefore, if there is no marquee, the (marquee) sign cannot be attached. Mr. Fraser stated, "The common sense version of a marquee is a structure or canopy generally over the primary residence of a theater. Common sense also informs us what places of entertainment are similar to a movie theatre. Such places have fixed rows of seating where audiences watch passively as lights dim and the curtain rises. I submit an art gallery is not similar. The Crary Art Gallery has no marquee to which a sign may be attached. Furthermore, the Crary Art Gallery is not similar to a movie theatre. This petition, using common sense, should be denied."

Mr. Kolcharno stated that he echoes Mr. Fraser's comments and also noted that this is an "after the fact" request in that the Gallery did not seek a permit for the initial sign placement. He further stated that he believes the initial sign is out of proportion and further suggested that the sign regulations may be reviewed as to permissible sign size.

Mr. Zavinski also stated that the original sign was larger than permitted and a permit was not obtained in advance of its placement.

Mayor Cashman requested a roll call vote on Mr. Lewis' motion to deny the request. The roll call resulted in five votes in the affirmative and two negative votes cast by Dr. Ferguson and Mr. Harvey.

Mr. Kolcharno left the meeting at this point.

Mr. Harvey made a motion to amend Section 2, Item 19, of Ordinance No. 1796 by striking "a marquee" in the first sentence and replacing with "or adjacent to the entrance of a building" and inserting "venue for the fine arts, performing arts or a" before the word "movie" in the first sentence. The motion was seconded by Dr. Ferguson. Upon further discussion, the motion was withdrawn.

Mr. Harvey made the motion to direct the Solicitor to examine the language that he presented and come back to Council in two weeks (August regular meeting) with an opinion on it. The motion was seconded by Dr. Ferguson.

Mrs. Freenock suggested that the matter be referred to the Planning Commission and Mr. Harvey be invited to work with the Commission to develop the appropriate language as they are the body who crafted the Sign Ordinance initially. She noted that the Commission has previously discussed this matter and has addressed possible language changes. Mr. Fraser (who previously served on the Planning Commission) noted that it is the Planning Commission's role to review changes to the Zoning Ordinance.

Mr. Fraser made the motion to amend Mr. Harvey's motion so that instead of it being referred to the Solicitor and coming back in two weeks, that Council refer the issue to the Planning Commission to determine whether there should be an appropriate "marquee" definition and "place of entertainment" definition under the current ordinance so that there can be a specific application of rules for future applications. The motion was seconded by Mr. Lewis and carried with five votes in the affirmative and one negative vote cast by Mr. Harvey.

The vote on Mr. Harvey's motion, as amended, carried with five votes in the affirmative and one negative vote cast by Mr. Lewis. See following motion.

Subsequently, Mr. Lewis requested that his vote be changed to "affirmative." Ms. Stapleford stated that since the result of the vote had been announced, he may only change his vote with permission of Council or by a vote to grant that permission. Dr. Ferguson made the motion to grant permission for Mr. Lewis to change his vote. The motion was seconded by Mr. Harvey and carried with five votes in the affirmative. Therefore, the vote on Mr. Harvey's motion, as amended, stands at six votes in the affirmative.

BID AWARD: MUNICIPAL POOL BUILDING RENOVATIONS

Mr. Holtz stated that the City opened bids on July 29, 2014 for the Warren Municipal Pool Building Renovations. This project was bid using four different contracts those being a General Contract, Plumbing Contract, Electrical Contract and Mechanical Contract. The apparent low bidders for each of these contracts are as follows:

Low Base Bid:		
Contract 1 – General Contractor	REMCO	\$136,884
Contract 2 – Plumbing	DASCO	47,700
Contract 3 – Mechanical	DASCO	15,444
Contract 4 – Electrical	Pure Tech	<u>44,097</u>
TOTAL		\$244,125

This bid also included various alternate items and it was recommended that Council consider including the following alternates:

Contract 1 – General Contractor:	REMCO	
Stainless Steel toilet partitions and sidewalk/concrete work		\$7,600
Contract 4 – Electrical:	Pure Tech	
LED Exterior light fixture upgrade		<u>1,218</u>
TOTAL		\$ 8,818

OVERALL TOTAL **\$252,943**

This project is being funded by a \$98,500 grant from DCNR, \$98,500 which was included in the 2014 General Fund budget and approximately \$55,000 which has been secured through local foundations. The project does not contain a line item for contingencies, typically the amount of this line item is 10% which totals \$25,000. Mrs. Freenock stated that City staff will seek additional funding from local foundations

Mr. Lewis made the motion to award contracts to the stated low bidders, with alternates, and to approve contingency expenditures as needed. The motion was seconded by Mr. Zavinski and carried unanimously among the six Council members present.

BID AWARD: MILL AND PAVE MUNICIPAL BUILDING PARKING LOT AND DPW GARAGE PUBLIC ACCESS AREAS

Mr. Holtz stated that the City opened bids on July 25, 2014 for the milling and repaving of the Municipal Building Parking Lot and the resurfacing of a section of the parking area at the DPW

Garage. The areas to be overlaid were shown on provided site plans. It was recommended that Council consider milling and overlaying "Area 1" at the Municipal Building along with "Area 1" and "Option 1" at the DPW Garage. Mr. Holtz noted that the landscaping area within the Municipal Building parking lot will be reconfigured to provide easier pedestrian access through the midline of the lot and to provide easier mobility for snowplows.

Mayor Cashman noted that the proposed paving areas are utilized by the public and suggested that it is appropriate to address these areas for safety reasons.

The apparent low bidder for these options is Lake Shore Paving from Jamestown, NY, in the amount of \$82,135. It was noted that Council approved the expenditure of \$80,000 for this project at the June 16, 2014 regular meeting.

Dr. Ferguson made the motion to approve a contract with Lake Shore Paving in the amount of \$82,135 for the milling and paving of the Municipal Building parking lot and at the DPW Garage. The motion was seconded by Mr. Lewis and carried unanimously among the six members present.

PARKING KIOSK BIDS

Chief Zydonik indicated that bids were received this date; however, it is necessary to clarify some information from bidders in order to insure that appropriate comparisons are made. It is anticipated that the item will be on the agenda for the August Regular Meeting.

ADDRESS TO COUNCIL REGARDING THE CRARY ART GALLERY APPLICATION

Pat Evans noted that she provided testimony at the Zoning Hearing Board hearing regarding the original wall sign installed by the Crary Art Gallery and that she has been a proctor at the Gallery for a number of years and anticipates being seated on the Board at their next meeting. Mrs. Evans also enumerated the various local government positions which she has held. She stated that the sign had been in place and the application by the Crary Gallery should have been brought before Council de novo and reviewed on the merits of the marquee sign. She stated that she believes that the Crary Board did all of the things that were meant to be done.

Mr. Champlin again addressed Council and stated that he believes that some of the signage on Market Street is insufficient in size and is not readily visible. He suggested that, in reviewing the sign ordinance, consideration should be given to allowing larger signage in this area.

Pauline Steinmeyer addressed Council and stated her perception that the Struthers Library Theatre (see 7/21/14 minutes) and Crary Art Gallery requests regarding marquees are being treated differently by City Council. She further stated her belief that had the Crary Art Gallery initially sought a permit for the original sign to which they propose adding a marquee sign, the outcome of the marquee sign permit would have been favorable to the Gallery.

Mayor Cashman noted that the Struthers Library Theatre is located in a Commercial Zoning District and also that the Theatre first came to Council to request approval of the concept. He further stated that the Council bears no resentment; however, the proper procedure was not followed by the Crary Art Gallery.

ADJOURNMENT

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