

December 20, 2011

The Gallipolis City Commission met in special session on Tuesday, December 20, 2011, at 7:00 p.m. in the Gallipolis Municipal Courtroom on Olive Street, having complied with Section 9 of the City Charter.

Commission President James Cozza called the meeting to order and gave the invocation.

Upon roll call, the following members were present:

James A. Cozza, President  
 James Jay Cremeens, Vice-President  
 Lori F. Bailey, Member  
 W. Matthew Johnson, Member  
 Steven E. Wallis, Member

Others attending were:

Randall J. Finney, City Manager  
 Adam R. Salisbury, City Solicitor  
 Annette M. Landers, City Auditor/Clerk/Treasurer  
 Judge Margaret Evans, Gallipolis Municipal Court  
 Amber Gillenwater, Gallipolis Daily Tribune  
 Jared Roach, WSAZ T.V.

Tony Gallagher	Clint Patterson	Marvin Vanderberg
John H. Elliott	Gene Elliott	Jacob Nolan
Jeremy O'Dell	Dean Mays	Jim Johnson
Jonathan Van Meter	Bradley S. Harris	Bill Gene Johnson
Keith Elliott	Joy Elliott	Polly Wetherholt
Jeff Boyer	Michael Fulks	Kim Elliott
Jim Eutsler	J. D. Taylor	Ronnie Lynch
Bette Horan	Kevin Plantz	Lee Ann Berkley
Ron Wagner	Christi Johnson	Dottie Chestnut
Randy Breech	Judy Walters	Andrew Holcomb
Bob Hood	Aaron Beaver	Autumn Beaver
Alton Beaver	Austin Beaver	

Commission received the minutes of the December 6, 2011 meeting prior to this meeting. There being no corrections, objections, or additions, these minutes were approved.

President Cozza turned the floor over to Police Chief Clinton Patterson for the presentation of the department's Life Saving Award to Police Captain Jeff Boyer and Patrol Officer Michael Fulks. Chief Patterson read the citation as follows: "On November 9, 2011, at approximately 4:12 p.m., Patrolman M.C. Fulks and Captain J.A. Boyer were dispatched to respond to 845 Second Avenue on what was reported as a two year old child that was not breathing. Upon arrival to the scene, Patrolman Fulks initially made contact with the father of the child, who is Ohio State Trooper Aaron Beaver. Mr. Beaver was holding his two year old son in his arms after exhaustive efforts to remove an airway obstruction had failed. Mr. Beaver turned the child over to Ptl. Fulks in an attempt to allow Ptl. Fulks to continue life saving measures. By this time, Capt. Boyer arrived on scene to assist Ptl. Fulks. Upon assessing the situation, Capt. Boyer made the determination that it was imperative for the survival of the child that the child be transported immediately due to the fact that the type of obstruction was not being relieved by the actions taken. Ptl. Fulks passed the child to Capt. Boyer and together the two quickly transported the child to meet the Gallia County E.M.S., who had been dispatched and were responding. While in

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transit, Capt. Boyer continued to work on the child in the cruiser and was able get some air passage into the child's lungs. Capt. Boyer and Ptl. Fulks ultimately met the ambulance near the Gallipolis city limits and Capt. Boyer drove the ambulance to Holzer Medical Center where the child was initially treated before being transported to a Columbus area medical center." Everyone present gave the officers a standing ovation to honor their heroic deed. President Cozza thanked the officers for their efforts, saying that we are all proud of them. They reflect the character and quality of the Gallipolis Police Department.

Ms. Judy Walters, Director of United Way of Gallia County, was recognized for *Privilege of Floor*. Ms. Walters had asked that their community investment check be presented at the Commission meeting, where she could thank all of the Commissioners. Mr. Cozza made the formal presentation, citing the work that United Way does to help serve the needs in the local community. (The actual check had already been deposited in the bank.) Ms. Walters thanked the Commission for their generous donation. She said that the money donated helps support twelve local agencies, serving approximately 20,000 local people.

Mr. Keith Elliott asked to address the Commission regarding an e-mail that Vice-President Cremeens sent to his employer. Mr. Elliott went point by point through the contents of the e-mail, questioning each statement and making a response. He also stated that since the e-mail complaint was sent that it was followed up by additional phone calls and a personal visit to his employer. He ended with four questions to the Commission:

1. Why am I being personally attacked and my full-time job being threatened by members of this commission, simply for expressing interest in becoming the Gallipolis Fire Chief?
2. Were this e-mail, subsequent calls, and visit, complaining to my employer, at the direction of and with full knowledge of the entire commission, or the acts of certain members, acting on their own?
3. What actions, if any, will this commission take to stop these personal attacks and acts of discrimination from being perpetrated against me and others in the department?
4. What, if anything, will the commission do to rectify the damage that has already been done?

President Cozza asked the City Solicitor if he should make a response. The City Solicitor advised that, since the questions involve matters concerning an employee, the matter could be discussed in executive session. President Cozza told Mr. Elliott that the Commission as a whole would discuss his concerns. He added that this action was not an action of this Commission in its entirety. He requested a written copy of Mr. Elliott's concerns for the City Solicitor to reference in advising the Commission.

The City Manager reported on the following:

- FEMA disaster team – Funding for Hedgewood Drive is questionable because some of the damage was prior to the disaster period. Mr. Finney has thirty days to provide before and after pictures to show the additional damage that occurred during the event period. The team is also planning to look at damage to the sewer system on Allen Drive and Chillicothe Road.
- Justice Center – The piping is in for the plumbing. They will start putting the steel up on Monday or Tuesday. We are about two weeks behind our original completion date because of rain delays. The completion date is now set at July 27<sup>th</sup>.
- Administration Building – The architect's drawing is done. The look is very similar to the Justice Center.
- New Cemetery Road – Triad will be here on Thursday to do the core drilling. It is still sinking some, and more choke has been applied to help protect it some. It will take a couple more weeks to get the engineer's report back to tell exactly the cost involved in fixing the road.
- A storm drain blew out on Henkle. Mr. Finney called in an outside contractor to help with the repair, which took about four days.
- Gallipolis Island – Ohio River Fish and Wildlife Refuge wants to know if we would sell or donate our portion of the island to them. Others have expressed interest in our portion of the island, most recently in 2007 or 2008, but the transfer was never completed. President Cozza asked for additional information from this group concerning their plans for preservation of the land.

- The Route 850 Lift Station near the Industrial Park was hit by lightning on or about December 2<sup>nd</sup>. The two motors, pumps, and board were destroyed. Crisenbery Electric has been working on fixing the damage. An insurance claim will be filed because the damage was from a lightning strike. The motors are \$25,000 each, with several thousand more for the pumps and circuit boards. We plan to rent a pump for a couple of months, at a cost of \$2,000 per month, until we can get everything worked out. It takes about six weeks to get a new pump in.
- Digital River Project – Sean Lane has asked permission to place some signs, promoting growth and innovations, on the poles downtown. The Commissioners were in favor of allowing this usage.
- The French Art Colony would still like some help in getting fence around their property. Mr. Finney is looking for some grant money for this purpose. We gave them the old fence back, but this is not enough for their purposes.
- Reminder – January 2<sup>nd</sup> at 8 p.m. is the time set by Charter for the Commission's re-organizational meeting.

Ms. Bailey made a motion to reappoint Ms. Pat Mills to another term on the City Park Advisory Board, seconded by Mr. Johnson. Upon voice vote on the motion, all votes were yes.

Ms. Bailey made a motion to reappoint Ms. Nancy Smith to another term on the Gallipolis Planning Commission, seconded by Mr. Johnson. Upon voice vote on the motion, all votes were yes.

Mr. Cremeens made a motion to appoint Ms. Jo Anne Nibert and Ms. Becky Viall to the Historic Preservation Review Board, seconded by Mr. Johnson. Upon voice vote on the motion, all votes were yes.

Mr. Finney said that Dave Walters has suggested fixing the sewer line on Chillicothe Road by running a line above the property, coming down to a couple of manholes. The property owner is okay with the plan. The property is being surveyed to determine the property lines prior to beginning work. The work will be contracted out to avoid legal issues, as discussed at prior meetings. This appears to be the best way to resolve any issues with Ohio EPA. EPA has sent along their guidelines, which will be given to the engineer on the project.

The City Auditor presented a new liquor license request for JBRB Properties, Inc, 215 Upper River Road for the new Buffalo Wild Wings restaurant that Randy Breech and Jim Blair are building. Mr. Johnson made a motion not to request a hearing, seconded by Mr. Cremeens. When invited to comment, Mr. Breech told the Commission that the new license is contingent upon passage in Precinct 5's primary in March 2012. The new restaurant will employ sixty-five jobs. The old building will need to be demolished and a new building built. Upon voice vote on the motion not to request a hearing, all votes were yes.

The performance audit will begin in early January. Auditors met with the City Manager and City Auditor on December 12<sup>th</sup>. They left a list of items they will need. They plan to meet with department heads at the first staff meeting in January.

The GASB-34 conversion of our 2011 financial statements will begin sometime early next year, as well. It will cost \$4,500, as approved in Ordinance No. O2011-81, adopted September 20, 2011. This cost is in the first draft of the 2012 budget.

The City Solicitor told the Commissioners that 7,470 cases had been filed to the end of November. He estimated that 700 more would be filed before the end of the year. This averages out to about 477 charges addressed on a weekly basis. Many cases involve multiple charges. Of the cases filed, roughly 5,700 were traffic, 1,500 criminal, and 300 DUI. Of the traffic cases, about 10% were ultimately dismissed or found not guilty. Around 18% of the criminal cases and 5% of the DUI were dismissed or found not guilty. Mr. Salisbury credited the work of the City Police, Sheriff's office, and Highway Patrol for much of the success in these cases.

Mr. Cremeens made a motion to re-appoint Ms. Shawn Saunders to the Sinking Fund Board, seconded by Mr. Johnson. Upon voice vote on the motion, all votes were yes.

President Cozza announced that this would be Ms. Lori Bailey's last meeting as a Commissioner. He thanked Ms. Bailey for stepping up to the plate to serve and wished her success in her future endeavors. Ms. Bailey said that serving on the Commission has been an experience. She said she hoped that she had a positive impact during her time in office. She expressed her hope that the new Commission would keep the best interests of the residents in mind, with personal agendas on the back burner.

Mr. Johnson read a statement he had prepared. **The holiday season is always a special time of year. Christmas is coming. Children are excited and anxious for Santa's arrival. People are generally nicer toward one another, exhibiting good will toward men, and most look forward to gathering with family and friends to celebrate all the good that the holidays represent. New Year's, in particular, is a time of reflection, where we are encouraged to evaluate the past and to resolve to make changes in our lives that will make the next year and, hopefully, our lives better. I need to lose about twenty pounds. I need to exercise more. I need to pay more attention to my wife.**

**We are on the verge of New Year and, as the calendar transitions from 2011 to 2012, this City will begin to see changes and transitions. Change, depending upon perspective, can either be positive or negative. Change is sometimes unexpected or unwanted, but it can also be exciting and exhilarating. Change can be difficult, but change is necessary for growth to occur.**

**Speaking of positive change, from out of the ashes on the 300 block of Second Avenue, a phoenix is poised to rise, and with it comes great opportunity for a multitude of great improvements for the City of Gallipolis, Gallia County, and to the benefit of all our local residents. As Randy mentioned, we have a company coming into town called BTS. They do software contracting for defense and intelligence. The gentleman who owns it and runs it is named Sean Lane. He's a former Gallia County resident, born and raised here. I met the guy for the first time a couple of weeks ago. He's got a lot on the ball and a lot of ideas. He wants to help. (Mr. Johnson interjected a children's story called "Button Soup", which is a tale of people cooperating to make a delicious soup by adding their own small contributions of vegetables and meats to a pot of water with only a button for flavoring. He spoke of this being similar to the cooperation of everyone in our community in creating a vibrant downtown once again.)**

**It is important now, more than ever, that we cultivate an environment that is conducive for growth and development, and to foster the people and ideas that will make this community a better place in which to live, work, and play. It will take all of us working together toward the tasks and strategies necessary to reach goals, which in the past may have seemed unreachable. Perception, for most people, is their reality. If you perceive something as unattainable and unreachable, it will likely remain unattainable and unreachable. We need to change the climate of poor perception that clouds our minds. Only then, will we be able to affect positive change for ourselves and our community.**

**The old saying is that Rome wasn't built in a day. It's true. It takes a lot of time to build a great city and society. But, as history shows us, it only took one day to burn it all down. Isn't it ironic that the controversy surrounding the fire department has the potential to become the firestorm that threatens to burn all that we have, as well as any chance to start the New Year with resolutions to grow and enrich the quality of life within the community?**

**Legend has it that Nero fiddled as Rome burned. Personal vendettas are the music coming from Nero's fiddle. Discordant sounds fuel the flames set by those wishing to settle old scores within the fire department's make-up, and its possible leadership. The general public doesn't care who leads the fire**

department. They only care that the chief and the firemen who respond to the various emergencies within the city and the surrounding communities are properly trained and able to perform their duties promptly, efficiently, and safely. That is what is most important and most imperative.

We, as Commissioners, have the responsibility to consult with the City Manager regarding the needs and problems of the city. We are not supposed to micromanage the City Manager, or to dictate the doctrine of the city. This city is a business, and should be operated as such. Commissioners should not use their positions as vehicles of retribution. Business is business. It has no time for petty, personal issues. We, as elected representatives, are supposed to represent the collective will of constituents of the city, which I believe is to make this City of the Gauls vibrant once again. The members of this Commission need to be part of new solutions, not part of the same, old problems. If any existing or future member of this Commission cannot fully commit to becoming part of the solution, then they should do what is best for the City and resign their position. This city deserves positive change from positive people. I implore the residents of this fine city to make their will known.

Lastly, the New Year is almost upon us, and with it this Commission's membership will change. With that change, rumor has it, that Nero is tuning up his fiddle in preparation of the flames. I hope the fire is just rumor and conjecture. We don't need a change for the negative at this critical juncture in our City's history. The fire would only burn out future cooperation for continued growth of the City. Perhaps during this holiday season, the Ghosts of Christmas Past, Present, and Future will appear to the Nero's in our city, as they did to Ebenezer Scrooge in the Dickens' classic "A Christmas Carol" to help impart the change for the positive that Scrooge was able to make. It's not too late; we still have a chance. We can change. We can all change for the better.

There was presented and read to the Commission as an emergency a Resolution No. R2011-26 entitled **AN EMERGENCY RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO FIRE PROTECTION AGREEMENTS WITH THE TOWNSHIPS OF ADDISON, CLAY AND GALLIPOLIS OF GALLIA COUNTY, OHIO.** Mr. Wallis made a motion to amend the contracts to include verbiage about rescue and safety, seconded by Mr. Cremeens. Upon voice vote to amend the contracts, all votes were yes. Ms. Bailey made a motion to adopt the amended resolution as an emergency, seconded by Mr. Johnson. Upon roll call to adopt the amended resolution as an emergency, all votes were yes.

There was presented and read to the Commission as an emergency a Resolution No. R2011-27 entitled **AN EMERGENCY RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A NEW SPECIAL REVENUE FUND (OCJS MRT PROBATION GRANT).** Mr. Wallis made a motion to adopt this resolution as an emergency, seconded by Ms. Bailey. Mr. Salisbury explained the purpose of Moral Reconation Therapy classes. These are classes to help people make good decisions. The classes have been shown to be very successful. Upon roll call to adopt this resolution as an emergency, all votes were yes.

There was presented and read to the Commission as an emergency an Ordinance No. O2011-115 entitled **AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENT WITH GALLIA COUNTY FOR THE BOARDING OF PRISONERS.** Ms. Bailey made a motion to adopt this ordinance as an emergency, seconded by Mr. Johnson. Upon roll call to adopt this ordinance as an emergency, all votes were yes.

There was presented and read to the Commission for a second reading an Ordinance No. O2011-116 entitled **AN ORDINANCE AUTHORIZING THE REMOVAL FROM THE LEDGERS OF THE CITY OF GALLIPOLIS UTILITY BILLING OFFICE CERTAIN PAST DUE ACCOUNTS AS SET FORTH HEREIN.** Ms. Bailey made a motion to adopt this ordinance on second reading, seconded by Mr. Johnson. Upon roll call to adopt this ordinance on second reading, all votes were yes.

There was presented and read to the Commission as an emergency an Ordinance No. O2011-117 entitled **AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE GALLIA COUNTY COMMISSIONERS FOR PAYMENT OF LEGAL SERVICES TO THE CITY'S INDIGENT CITIZENS.** Mr. Wallis made a motion to adopt this ordinance as an emergency, seconded by Mr. Johnson. Upon roll call to adopt this ordinance as an emergency, all votes were yes.

There was presented and read to the Commission as an emergency an Ordinance No. O2011-118 entitled **AN EMERGENCY ORDINANCE AUTHORIZING THE CITY MANAGER TO PURCHASE A GENERATOR FOR THE GALLIPOLIS JUSTICE CENTER.** Ms. Bailey made a motion to adopt this ordinance as an emergency, seconded by Mr. Johnson. The effective date of the ordinance is January 3, 2012, to place the purchase in next year's budget. Upon roll call to adopt this ordinance as an emergency, all votes were yes.

There was presented and read to the Commission as an emergency an Ordinance No. O2011-119 entitled **AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO AUTHORIZE AND FUND CHANGE ORDER NO. 2 WITH HOON, INC. FOR CONSTRUCTION OF THE REMOTE FIRE STATION AND CEMETERY OFFICE.** Mr. Wallis made a motion to adopt this ordinance as an emergency, seconded by Mr. Johnson. Mr. Finney told the Commissioners that this was for \$4,200 in additional concrete work that was done for the new fire station. The ordinance is retroactive back to September 9, 2011. Upon roll call to adopt this ordinance as an emergency, all votes were yes.

There was presented and read to the Commission as an emergency an Ordinance No. O2011-120 entitled **AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO CONTRACT WITH BREECH ENGINEERING TO PERFORM PROFESSIONAL SERVICES RELATED TO THE DESIGN OF A NEW MUNICIPAL BUILDING FOR THE CITY OF GALLIPOLIS, OHIO.** Mr. Cremeens made a motion to adopt this ordinance as an emergency, seconded by Mr. Wallis. Upon roll call to adopt this ordinance as an emergency, all votes were yes.

There was presented and read to the Commission as an emergency an Ordinance No. O2011-121 entitled **AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO AUTHORIZE AND FUND CHANGE ORDER NO. 2 WITH KINSALE CORPORATION FOR CONSTRUCTION OF THE GALLIPOLIS JUSTICE CENTER COMPLEX FOR STORM PIPING FOR DRAINAGE IMPROVEMENTS.** Ms. Bailey made a motion to adopt this ordinance as an emergency, seconded by Mr. Johnson. Upon roll call to adopt this ordinance as an emergency, all votes were yes.

There was presented and read to the Commission as an emergency an Ordinance No. O2011-122 entitled **AN EMERGENCY ORDINANCE AMENDING CHAPTER 153, CIVIL SERVICE RULES FOR APPOINTMENT AND PROMOTION OF MEMBERS OF POLICE AND FIRE DEPARTMENTS, OF THE CODIFIED ORDINANCES OF THE CITY OF GALLIPOLIS, OHIO.** Ms. Bailey made a motion to adopt this ordinance as an emergency, seconded by Mr. Johnson. There followed a lengthy discussion of the wording of the ordinance, particularly concerning three issues: the years of experience requirement for Police and Fire Chief, whether to restrict the initial search to the rank of Sergeant or higher (for Police Chief) or from the rank of Lieutenant or higher (for Fire Chief), and whether to limit the initial search to within each department or to throw it open to those outside the respective departments. Mr. Wallis explained that his purpose in proposing to require twenty years of service was to assure the most qualified individuals, not to disqualify any particular individual. Ten years of service is the requirement for the lowest officer position (Third Lieutenant) in the fire department. Mr. Cremeens asked if the ordinance could be tweaked to allow anyone with ten years of experience to apply (eliminate the requirement of rank). Mr. Wallis and Mr. Cremeens both spoke in favor of opening the initial search to those outside the department, as well. Mr. Johnson and Ms. Bailey (as well as Mr. Finney and many of the firefighters present) spoke against opening the initial search to outsiders. The City Solicitor pointed

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out that the ordinance also removes the Civil Service testing requirement for the promotion to Police Chief or Fire Chief.

Mr. Cremeens stated that there was no need to rush the filling of this position until the results of the investigation of the former chief are known. He was told that this topic would be discussed in executive session.

Mr. Wallis explained the reason for removal of the word "volunteer" from the verbiage. The Gallipolis Volunteer Fire Department is an independent organization incorporated under that name and separate from the Gallipolis Fire Department. The Gallipolis Fire Department is staffed by volunteer firefighters, a station firefighter, fire chief and two assistant fire chiefs. The station firefighter cannot serve as fire chief according to ordinance.

Mr. Cremeens made a motion to amend Section 153.01 Promotion to Police Chief to read, "Promotion within the police department for Chief of Police shall be made from all those officers with a minimum of ten years of experience as a police officer in the Gallipolis Police Department" (the second paragraph in this section remains unchanged), to amend Section 153.02 Promotion to Fire Chief to read, "Promotion within the Fire Department for the Chief shall be made from all those firefighters with at least ten years of experience as a firefighter with the Gallipolis Fire Department" (the second paragraph in this section remains unchanged), and to remove the word "volunteer" from all references to the Fire Department in the ordinance, motion seconded by Ms. Bailey. Upon voice vote to amend the ordinance, all votes were yes. Upon roll call to adopt this amended ordinance as an emergency, Mr. Wallis voted no. All other votes were yes. Ordinance No, O2011-122 was placed on first reading.

Mr. Cremeens made a motion to enter executive session to discuss personnel and legal (lawsuit) issues as set forth in ORC Section 121.22(G)(1) & (3), seconded by Mr. Johnson. Upon roll call to enter executive session, all votes were yes. President Cozza announced that there would be no business following executive session and that the next meeting would be on Monday, January 2<sup>nd</sup>, at 8 p.m. He promised Mr. Elliott a written response to his questions from the Commission. Upon completion of executive session, Commission returned to special session. There being no further business to come before the City Commission, the meeting was adjourned.

  
Clerk, City Commission

  
President, City Commission