

CITY OF CLEVELAND
CITY COUNCIL MEETING
AUGUST 8, 2016
MINUTES

CITY COUNCIL MEETING

The City Council Meeting of the Mayor and Council of the City of Cleveland was called to order by Mayor Shan Ash at 7:01 p.m.

COUNCIL MEMBERS PRESENT: Annie Sutton, Bradley Greene, Edward Young, and Nan Bowen.

APPROVAL OF AGENDA

On motion by Edward Young, seconded by Nan Bowen, in favor – Annie Sutton and Bradley Greene, and carried unanimously, the Mayor and Council voted to approve the agenda for the August 8, 2016 City Council Meeting.

NADINE WARDENGA – PLANNING AND ZONING BOARD

Before Ms. Wardenga began to present the zoning applications, Mayor Shan Ash explained when the application for the Emory Grady Stamey Lifetime Trust is being considered, he will recuse himself and turn the meeting over to Mayor Pro Tem Annie Sutton.

Ms. Nadine Wardenga, Chair of the Planning and Zoning Board presented the following applications and read the minutes of the Planning and Zoning Meeting held July 28, 2016:

The chair presented the application of Kiwanis Club of Cleveland c/o Gloria Sutton requesting an annexation into the Cleveland city limits with a zoning classification of B-II Highway Commercial Business, Tax Map and Parcel 048C-167 located at 1609 Highway 129 South.

Ms. Wardenga opened the floor for comments. Mr. Blake Boggs stated his company has the property for sell and felt it would be better served in the city.

Ms. Wardenga read the definition for B-II Highway Commercial Business: The B-2 highway commercial district is intended primarily for the development of those business activities which mainly cater to the traveling public and which should be located on a major street. Within the B-2 district the following uses are permitted:

- (1) Gasoline service stations, provided that points of access and egress shall be located not less than ten feet from the intersection of street lines; shall not exceed 30 feet in width; and shall not be closer than 40 feet apart;
 - (2) Motels;
 - (3) Drive-in restaurants;
 - (4) Business, professional and governmental offices;
 - (5) Retail shops customarily serving tourist or highway trade;
- (b) In the event that a parcel which was formerly located in an R-1 residential district, an R-2 residential district, and/or an R-3 residential-agricultural district, has been rezoned so as to be located in the B-2 highway commercial district, then and in such event any residential structure located on said parcel which was lawfully used as a residence prior to said rezoning action, may continue to be used as a residence on said parcel until such time as said residential structure is used for one or more of the permitted purposes allowed under section 64-126(a)(1) through (a)(12). A home occupation, as defined under section 64-3, when located in said residential structure shall also be deemed a permitted use under this provision.

Mr. Ted Worley, President - Kiwanis Club of Cleveland, informed the Kiwanis would like to sell the property and use the proceeds to fund the club's programs for children and the community. Gloria Sutton, Secretary – Kiwanis Club of Cleveland, was also present.

Ms. Wardenga asked if there was anyone present that wanted to speak on the annexation and zoning request. There were no further comments.

Ms. Wardenga called for a motion for the annexation.

NADINE WARDENGA – PLANNING AND ZONING BOARD - continued

On motion by Jeff Groves, seconded by Wilma Pittman, in favor – Linda Hobbs, Henrietta Sutton, Arthur Palmer, and Sam Pelletier, and carried unanimously, the Planning and Zoning Board voted to recommend annexation of Kiwanis Club of Cleveland into the Cleveland city limits, Tax Map and Parcel 048C-167 located at 1609 Highway 129 South.

Ms. Wardenga called for a motion for a zoning classification

On motion by Jeff Groves, seconded by Sam Pelletier, in favor – Linda Hobbs, Henrietta Sutton, Arthur Palmer, and Wilma Pittman, and carried unanimously, the Planning and Zoning Board voted to recommend a zoning classification of B-II Highway Commercial Business, Tax Map and Parcel 048C-167 located at 1609 Highway 129 South.

Ms. Wardenga reminded all parties to attend the August 8, 2016 City Council Meeting for a final decision.

Mayor Ash asked if anyone present had contributed to the campaigns of the Mayor and Council? No one answered.

Blake Boggs, Alco Realty, was present to represent the applicant and did not have further comments to add.

On motion by Bradley Greene, seconded by Annie Sutton, in favor Edward Young, and Nan Bowen, and carried unanimously, the Mayor and Council voted to accept the Planning and Zoning Board recommendation and approve the annexation of Kiwanis Club of Cleveland into the Cleveland city limits, Tax Map and Parcel 048C-167 located at 1609 Highway 129 South.

On motion by Annie Sutton, seconded by Nan Bowen, in favor Bradley Greene and Edward Young, and carried unanimously, the Mayor and Council voted to accept the Planning and Zoning Board recommendation and approve the zoning classification of B-II Highway Commercial Business of Kiwanis Club of Cleveland, Tax Map and Parcel 048C-167 located at 1609 Highway 129 South.

Mayor Ash turned the meeting over to Mayor Pro Tem Annie Sutton and recused himself for the hearing of the application of the Emory Grady Stamey Lifetime Trust due to having an interest in the request for rezoning.

Mayor Pro Tem Annie Sutton asked if anyone present had contributed to the campaigns of the Mayor and Council. No one answered.

The chair presented the application of Emory Grady Stamey Lifetime Trust c/o Michelle Ash requesting a zoning change from R-I Single Family Residential to R-III Single Family Agriculture for approximately 12.1 acres of property, Tax Map and Parcel 047A-074 located at 700 Church Street.

Ms. Wardenga opened the floor for comments. Michelle Ash, applicant, made a statement regarding the intended use of the property. A portion of Ms. Ash's statement is made a part of these minutes.

I am writing to express my intent for the property located at 700 Church Street. It is my intent to have a "Hobby Farm". I am asking for rezoning of this property to R3 to accommodate the following: a hoop house, pasture area to contain livestock, a fruit/vegetable/herb garden, egg producing fowl, and a fowl aviary/coop. Currently, the property is in soil conservation. I will continue to have the property in soil conservation. I will also continue to utilize the existing old cattle barn that was original to the property. The subject property consists of 12 acres of rolling pasture and wooded land with a single family home and accessory structure. The underutilized property has been owned and used by the same family for single family residential and at times agriculture for over 50 years. The uses of the adjoining property and nearby property are single family residential, institutional and general business. The proposal for single family residential and the care and maintenance of the owner's personal horses is suitable for the area. The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property.

NADINE WARDENGA – PLANNING AND ZONING BOARD - continued

The property of the proposed rezoning has an economic use under the existing zoning and the proposed zoning. The zoning proposal will not result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. In fact, the impact of the proposed zoning will be substantially less than the full development of the property under existing zoning. The proposal is in conformity with the policy and intent of the land use plan. The R-3 zoned property across the street and a residential lot adjoining on the south side of the subject tract fronting Church Street make this a logical extension of the existing zoning. Failure to rezone the property as submitted will result in an unconstitutional taking of the property.

Ms. Ash gave a history of the former owners having horses and farm animals and also referenced the comprehensive plan which shows the future land use as agricultural.

Ms. Wardenga asked if there were comments for or against the application.

Mr. Russell Bentley, 123 Yonah Springs, stated he learned of the zoning request by a notice he received in the mail. He stated he was surprised that all of his neighbors did not receive the same notice. The city clerk informed a notice is sent to surrounding property owners, but the requirement is to post the zoning request sign on the property and to post the request on the legal section of the newspaper.

Mr. Bentley stated his property is not completely buffered from the applicant's property and has had noise issues from 700 Church Street. Mr. Bentley informed he had a confrontation with the property owner about the noise level. Mr. Bentley began to talk about a second confrontation with the property owner and was told that that was of a personal matter and did not have anything to do with the zoning request. Mr. Bentley answered he had a point to bringing up the issues and the city clerk informed what he had to say would be made part of the minutes. Mr. Bentley continued to explain the excessive noise continued late into the night and he confronted the property owner and was met with foul language. Mr. Bentley stated his point is the property owner has a blatant disregard for other property owners. Mr. Bentley added he felt the addition of animals will cause unpleasant odors, flies, and additional noise, and this could affect property values.

Mr. Bentley submitted a petition signed by several neighbors (5 out of 7 homes in Yonah Shadows and 4 outside of the subdivision) in opposition of the zoning change.

Ms. June Parks, 849 Church St, stated she enjoys looking out her window and seeing the property and would love to see horses running on the property. Ms. Parks is in full support of the zoning change.

Mr. Gary Adkins, 924 Church St., publicly stated he was in favor of the zoning change.

Mr. Lamar "Pinkey" Black informed he could not imagine a better use for the property than the proposed agriculture.

Mr. Richard Papps, 80 Yonah Springs Dr., informed his name was on the petition, but after speaking with Ms. Ash, he does not feel the proposed use will cause any concerns. Mr. Papps was satisfied with the intent stated and would like to have his name removed from the petition that opposes the zoning change. Mr. Papps was informed the petition could not be manipulated but it would be stated in the minutes of his desire to remove his name.

Ms. Connie Davis, 62 Yonah Springs Dr., stated her name is on the petition and being raised on and near farmland, she understands the concerns of odors and flies. Ms. Davis has met with Ms. Ash and now feels the use of the property is appropriate and would like her name taken off the petition.

Mr. David McDowell, 336 Yonah Springs Dr., stated he is excited about the development of the property for farm use and feels it would complimentary to the area.

Wilma Pittman, board member and resident, stated she did not have an issue with horses, but with chicken coops. The property is under conservation and should have no improvements made to the property.

Mr. Richard Papps inquired of what is allowed in R-III Single Family Agriculture. Ms. Wardenga read the definition: The R-3 residential-agricultural district is composed of low density residential areas intermixed with agricultural activities. The regulations for this district are designed to provide for, in addition to those uses allowed in R-1, the pursuits of farming activities

NADINE WARDENGA – PLANNING AND ZONING BOARD - continued

until the rising property values make farming uneconomical. In the R-3 residential-agricultural district, the following uses are permitted:

- (1) Any permitted use in R-1 district;
- (2) The keeping of livestock or poultry, provided no building used for the keeping of poultry or farm livestock shall be closer to any property line or dwelling, other than the dwelling of the owner, than 300 feet;
- (3) Static electrical transformer stations and gas regulator stations;
- (4) Accessory farm uses including the sale of products grown on the premises;
- (5) Radio and television transmission towers.

Ms. Ash stated her family would like to grow their own food, house their own horses, but did not want to limit herself of having chickens in the future.

Mr. Bentley asked if it was possible to limit the use. Ms. Wardenga answered the use is limited by the acreage and would be used as a Hobby Farm. Mr. Bentley stated the property may not always have the same owner. Ms. Wardenga informed the stipulations will carry with the zoning recommendation.

Ms. Ash emphatically stated she did not want a hog farm on her property.

On motion by Jeff Groves stating he understand Ms. Ash's heart and the concerns of the neighbors, seconded by Wilma Pittman in favor – Linda Hobbs, Henrietta Sutton, Arthur Palmer, and Sam Pelletier, and carried unanimously, the Planning and Zoning Board voted to recommend the request to rezone from R-I Single Family Residential to R-III Single Family Agriculture for approximately 12.1 acres of property, Tax Map and Parcel 047A-074 located at 700 Church Street with the stipulations of no commercial chicken houses or a hog farm be located at the property.

Ms. Ash thanked all those that came out in favor of her application. She understands the reservations of her neighbors and is glad that she has had the opportunity to meet them all.

Ms. Wardenga reminded all parties to attend the August 8, 2016 City Council Meeting for a final decision.

Ms. Wardenga added it was a rare occasion of there being more in attendance in favor of the zoning change than against.

Ms. Michelle Ash, applicant, was present to answer questions.

Mayor Pro Tem Sutton asked Ms. Ash if she would be opposed to additional stipulations. Ms. Ash answered it is according to what the stipulations would be. Ms. Ash further stated she is limited by the acreage and will not have a hog or chicken farm. At this time, Ms. Ash is not interested in having chickens, but would like to have the option in the future.

Mayor Pro Tem Sutton asked about livestock being properly housed. Ms. Ash stated an existing barn will be used and may need to be modified to house animals.

Nan Bowen asked how far the building was off the property line. It was estimated to be approximately 100 feet from the adjoining property line.

Mayor Pro Tem Sutton asked would Ms. Ash be opposed to a vegetative buffer. Ms. Ash stated there is a buffer in place. Her family planted trees along the property line when Yonah Shadows subdivision was being developed.

NADINE WARDENGA – PLANNING AND ZONING BOARD - continued

Chief Foster advised Ms. Ash to keep Mayor Ash off the horses. Ms. Ash responded she had warned Mayor Ash to not get on the horse no less than five times. *(This is in reference to Mayor Ash being thrown from a horse earlier in the year).*

Mayor Pro Tem Sutton questioned Grant Keene, City Attorney, if the city can legally add stipulations to a zoning classification that would stay with the property. Mr. Keene answered the city could consider deed stipulations, but would need the approval of the applicant. The applicant or new owner could ask for another zoning hearing if the stipulations no longer met the use of the property.

Ms. Wardenga informed a farmer, including a Hobby Farm, is allowed to sell off the farm. The city cannot restrict sales off of farmed land.

Ms. Ash stated she does not want the property categorized as a commercial hog or chicken farm.

On motion by Bradley Greene, seconded by Edward Young, in favor – Nan Bowen, and carried unanimously, the Mayor Pro Tem and Council voted to accept the recommendation of the Planning and Zoning Board and approved to rezone from R-I Single Family Residential to R-III Single Family Agriculture for approximately 12.1 acres of property, Tax Map and Parcel 047A-074 located at 700 Church Street with the stipulations of no commercial chicken houses or a hog farm be located at the property.

Mayor Pro Tem Annie Sutton turned the meeting over to Mayor Ash.

Ms. Wardenga presented the final application.

The chair presented the application of Hilda Watson requesting a change of use from R-I Church Assembly to R-I Single Family Residential for less than 1 acre of property, Tax Map and Parcel C01B-072 (C07-053) located at 182 Church Street. Mr. Rob Watson was present to represent the application. At the 05/26/2016 Planning and Zoning Board Meeting, the board voted to table the decision until Ms. Watson provided information of how she would renovate the church into a residence. Ms. Watson has since met with the Cleveland Building Inspector and has provided a list of repairs which include bringing the building up to residential code

On motion by Henrietta Sutton, seconded by Wilma Pittman, in favor – Linda Hobbs, Jeff Groves, Arthur Palmer, and Sam Pelletier, and carried unanimously, the Planning and Zoning Board voted to recommend a change of use from R-I Church Assembly to R-I Single Family Residential for less than 1 acre of property, Tax Map and Parcel C01B-072 (C07-053) located at 182 Church Street.

Bradley Greene asked if Ms. Watson had given a time table of the renovations. The clerk answered Ms. Watson will begin with the basement to renovate to living quarters, remove the steeple and the stained glass windows.

On motion by Edward Young, seconded by Nan Bowen, in favor – Annie Sutton and Bradley Greene, and carried unanimously, the Mayor and Council voted to accept the recommendation of the Planning and Zoning Board and approved a change of use from R-I Church Assembly to R-I Single Family Residential for less than 1 acre of property, Tax Map and Parcel C01B-072 (C07-053) located at 182 Church Street.

CHARLES MASSINGALE – DISCUSS WATER/SEWER RATES

Charles Massingale was not present.

BETH GOODEN – THUNDER RIDGE WATER SYSTEM

Beth Gooden was not present.

ANNA ROBERTSON – LOWE’S GRANT UPDATE

Ms. Robertson submitted a preliminary report of the status of the Lowe’s Charitable Grant. Ms. Robertson is waiting on playground equipment pricing from several vendors. The city is attempting to receive funds to add and replace the playground equipment for children with special needs.

The Mayor and Council discussed using Ms. Robertson’s services to apply for grants for equipment for the fire department. The fire department is in need of turn-out gear and air tanks.

On motion by Nan Bowen, seconded by Edward Young, in favor – Annie Sutton and Bradley Greene, and carried unanimously, the Mayor and Council voted to approve the agreement to retain Ms. Robertson’s service to apply for grants for the fire department.

Mayor Ash informed he was approached by a deputy who offered to help with the city park.

BRIAN RINDT – CITY ENGINEER

Brian Rindt, City Engineer, presented the contract agreements for the 129 North Sewer Project. A preconstruction meeting will be held August 11, 2016 at 10:00 a.m.

On motion by Edward Young, seconded by Bradley Greene, in favor Annie Sutton and Nan Bowen, and carried unanimously, the Mayor and Council approved the contract agreement between the city and Mid-South Builders for the installation of the 129 North Sewer Project. Mayor Ash was given authorization to execute the documents.

The City has applied with USDA through the internet to acquire the proper identification for applying for the USDA grant program.

GRANT KEENE – CITY ATTORNEY

Grant Keene, City Attorney, had no new business to report but will have an item for executive session concerning real estate.

CHIEF JOHN FOSTER – POLICE DEPARTMENT

Chief Foster was not available due to responding to an emergency call.

NEW BUSINESS

1. On motion by Bradley Greene, seconded by Annie Sutton, in favor – Edward Young and Nan Bowen, and carried unanimously, the Council voted to approve the class request for Mayor Ash to attend the Georgia Rural Water Association Convention.

NEW BUSINESS - continued

2. Public comments – Cindy Bailey, White County Chamber, reminded the council of the Chamber Annual Meeting to be held August 18. The Chamber will also hold a retirement reception for White County News Editor Billy Chism on August 25. Ms. Bailey asked if the city would present a proclamation.
Annie Sutton asked Ms. Bailey why there were concerns from the chamber board members of having a city representative on the board. Ms. Bailey explained the bylaws does not allow for a city representative and although the board members think highly of Annie, they felt it would be a conflict of interest. Ms. Sutton questioned if the county representatives were able to vote and Ms. Bailey answered yes. Bradley Greene stated he did not like the set-up and questioned why it was not a conflict with the county as they also contribute to the chamber. Ms. Bailey could not answer but stated she would address with the board members.
3. Casey Tatum came before the council to discuss the need for speed bumps on Church Street. Mr. Tatum has already discussed with the city clerk and the Chief of Police but felt it necessary to discuss with the council.

OLD BUSINESS

1. The minutes of July 2016 were signed.
2. Annie Sutton thanked city employees Beth Rohmeyer, Tonya Abernathy, and Alex Cruz for attending the meeting. Ms. Sutton stated it was good to see employee involvement.

EXECUTIVE SESSION

On motion by Annie Sutton, seconded by Nan Bowen, in favor –Bradley Greene and Edward Young, and carried unanimously, the Mayor and Council voted to enter into executive session to discuss real estate at 7:58 p.m.

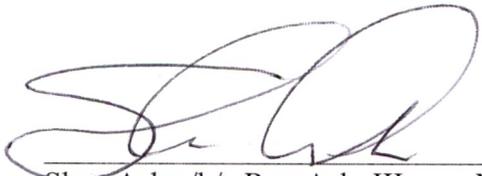
RETURN TO COUNCIL MEETING

On motion by Bradley Greene, seconded by Annie Sutton, in favor – Edward Young and Nan Bowen, and carried unanimously, the Mayor and Council voted to return to the City Council Meeting of July 11, 2016 at 8:20 p.m. No further business was discussed.

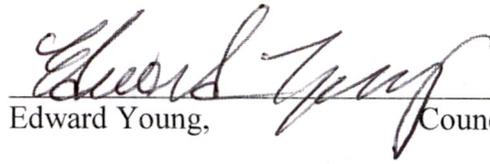
ADJOURNMENT

On motion by Edward Young, seconded by Annie Sutton, in favor – Bradley Greene and Nan Bowen, and carried unanimously, the Mayor and Council voted to adjourn the City Council Meeting of August 8, 2016 at 8:21 p.m.

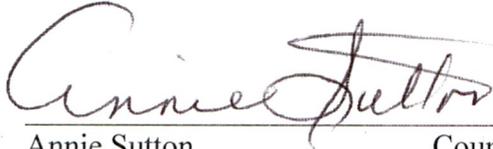
Signatures next page



Shan Ash a/k/a Roy Ash, III Mayor



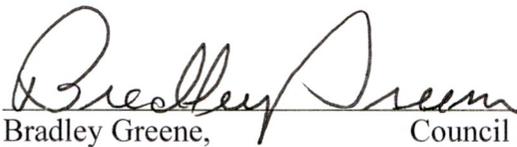
Edward Young, Council Member



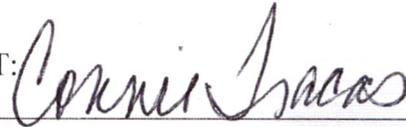
Annie Sutton, Council Member



Nan Bowen, Council Member



Bradley Greene, Council Member

ATTEST: 

Connie Tracas, City Clerk

