

# City of Springdale Council

June 18, 2014

President of Council Mr. Vanover called Council to order on June 18, 2014 at 7:02 p.m.

The governmental body and those in attendance recited the Pledge of Allegiance.

Mrs. McNear provided the Invocation.

Mrs. McNear took roll call. Council members Diehl, Emerson, Harlow, Hawkins, Knox, Squires, and Vanover were all present.

The minutes of June 4, 2014 were considered. Mr. Squires made a motion to adopt; Mr. Knox seconded. Minutes were approved with seven affirmative votes.

## Committee and Official Reports

### Civil Service Commission

Mick Higgins: The Civil Service Commission met on June 5th, 2014, with all members of the commission present with the exception of Mr. Coleman. Also present was Jerry Thamann, Assistant City Administrator. The minutes were approved from the April 3rd meeting; there was no meeting for May 2014. No discussion or comments from the audience; there were no reports, no unfinished business. In Correspondence, there was correspondence from Mr. Thamann dated April 18th, 2014, to the commission concerning the possible resignation of one of the firefighters and the need to administer a written test. Also reviewed correspondence dated May 21st, 2014 from the commission to Mr. Thamann, certifying the top ten applicants for the position of patrol officer. There was correspondence dated May 29th, 2014 from Mr. Thamann to the commission, submitting a timeline for the recruitment process for the full-time firefighter. That timeline was approved. Both Mrs. Nienaber and I will be present at the firefighter test, which will be held on Saturday, June 28th. There was correspondence dated June 2nd from Mr. Thamann to the commission, requesting the next applicant for the position of Patrol Officer and the commission corresponded back to Mr. Thamann, forwarding the next applicant for the position. The members suggested that the next meeting be held on July 2nd in lieu of no Council meeting that evening. Mr. Coleman confirmed that there was no conflict so the next meeting of the Commission will be held on July 2nd at 6:00 p.m. That concludes my report.

Rules and Laws	Mr. Hawkins	-	no report
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Finance Committee	Mr. Diehl	-	no report
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### Planning Commission

Mrs. Harlow: Planning Commission met on June 10th, 2014. Mrs. Boyce was absent from that meeting; all other members were in attendance. We had quite a bit of business to attend to. Under Old Business, there was an existing pylon sign at Tri-County Commons, 620 Kemper Commons Circle. As I reported at our last official report for committees, they wanted additional signage there for future companies that may be looking to come into the Tri-County Commons market there. We discussed that again because they still have three open slots and that failed with a 4-2 vote.

We had a Conditional Use Permit and Development Plan for Tire Discounters at 12130 Springfield Pike. Mr. Bauer removed himself because of a Conflict of Interest and he left the chambers. After much discussion, it was approved with five members voting for the Use Permit and Development Plan.

We also had under Old Business an exterior building improvement to Wendy's at 400 Northland Boulevard. Wendy's is getting ready to remodel the outside of their existing restaurant at Northland Boulevard and they've submitted a very nice presentation with some stonework on the outside, some new coloring, new logos; I think it's going to be a very nice addition to that corner. That was approved with six in favor.

Under New Business, we had a Conditional Use Permit for the Farmer's Market at 11494 Walnut Avenue and that was approved with six votes.

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Mrs. Harlow (continued): We had a Minor Revision to the Transition Plan; it's a sign for Supreme Great Lakes at 11780 Springfield Pike. This is a sign that has been there for quite some time, probably six months or so, and it's called a channel sign. It was brought before Planning Commission because it doesn't really meet the criteria of channel signs but the gentleman from the sign company explained that it is the channel signage because the industry has changed and this is just one area that our Zoning needs to look at, to stay in compliance and up-to-date with the new type of signage that's coming out, because the new technology they have in making the signs is all very different. It was approved with six votes and that was one of the things we put on our list to discuss at our Zoning Review meeting.

We also had a Minor Revision to the PUD at Tri-County Town Center at 11711 Princeton Pike. This was basically a Concept Plan. They are looking at the old KFC and the Monro Building. They're looking to tear both of those buildings down and build another facility there that would house a restaurant at the front and possibly three other additional storefronts along Francis Lane. There's a lot of concern regarding parking, regarding the ability for the trucks to get around the building, and he was basically here to let us know what he wants to do, to get some support, to find out how the Administration felt, and to move forward from there. He does have a tentative client for the first restaurant and they do want a little outside seating area and all that. He's got a lot to work through but I feel like with what they've done with the Tri-County Town Center, they'll do just as nice of a job over at that parcel of land. He'll be back before us when he works that out and works with staff to come up with some firm plans.

We also had a Minor Revision to the PUD and this was changes to building colors and awning fabric colors at Tri-County Commons and that was approved with 6 affirmative votes. That would conclude my report and I'll be glad to answer any questions.

### Board of Zoning Appeals

Mr. Hawkins: Board of Zoning Appeals met on June 17th, 2014; all seven members were present. We had no matters of Old Business, one matter of New Business. The owner of 12130 Springfield Pike was requesting three variances; it sort of piggybacks on what Mrs. Harlow had reported from Planning Commission. This was Tire Discounters, looking to move down to the Sibcy Cline Building on Springfield Pike. They requested a variance for the setback that's normally supposed to be ten feet; they were asking for it to be, I believe, a 6.7 feet setback instead. They also wanted a variance for a pole sign and they wanted a variance for signage beyond what they were allowed. The matter regarding the pole sign and the total signage was continued because they're going to go back to Planning Commission in July so both of those matters were tabled with 7-0 vote. With regard to the 6.7 foot setback, that Variance was granted with a 7-0 vote. We expect to see them again, probably in July after they go back to Planning. That concludes my report unless Mr. Knox has anything to add or if there are any questions.

Board of Health	Mr. Squires	-	no report
Public Utilities	Mrs. Emerson	-	no report
Public Relations	Mr. Hawkins	-	no report
Capital Improvements	Mrs. Emerson	-	no report
Public Welfare, Safety & Education	Mr. Diehl	-	no report
Housing Board	Mr. Squires	-	no report
Public Works	Mr. Squires	-	no report
O-K-I	Mrs. Harlow	-	no report

### Mayor's Report

Mayor Webster: The only thing I wanted to share with Council was the fact that I have reappointed two members to the Housing, Building, and Fire Appeals Board; they being Mr. Charles Hormann and Mr. Robert Apke. Those are four-year terms; they begin June the 1<sup>st</sup> and they run through May 31<sup>st</sup> of 2018, so we have a full board there. That's all I have.

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### Clerk of Council/Finance Director

Mrs. McNear: Just a quick up date for the Finances. This is for the month of May and year-to-date through May: Our budget is \$15.471M for the year; so far we have collected \$8.438M, which is 55% of our anticipated budget. Our top sources of income are Earnings Tax, Real Estate Tax, Local Government Funds, Estate Tax, and Paramedic Services, and that constitutes 92% of our revenue. Our Ending General Fund balance as of the end of May was \$5.691M. On the Expenditure side of the house, we have a net Budget of \$17.361M. Through May, we have expended \$7.015M; that's 39% of our budgeted expenses. That concludes my report, thank you.

### Administrator's Report

Mr. Parham: Each year, the City of Springdale, as well as all municipalities in the State of Ohio, is required to perform inspection on bridges in their jurisdiction. Within the City of Springdale, there are twelve units that are identified as bridges. Eight of those are the responsibility of the City of Springdale to have inspections performed. One is the responsibility of the State of Ohio and three others are the responsibility of the federal government. I'll go backwards, in reverse. For the Federal government, if you think about the bridges in our community, Kenn Road, State Route 4, and State Route 747 fall under their jurisdiction. They all cross Interstate 275. The state's responsible bridge is on Kemper Road near Sam's. Then there are the eight. Some of them you would not imagine that they are considered as a bridge, but they are. The first is on Glensprings Drive just west of Route 4, near Beef O'Brady's. Do you ever recall riding over a bridge over there? Because there is a culvert underneath Glensprings Drive at a certain height, it qualifies as a bridge. The next is on Northland Boulevard near our Public Works entrance. We have the one bridge at the entrance of Chamberlain Park. It is actually on Marwood. Then there is Chesterdale Road north over I-275. We have one on Neuss Avenue between Silverwood and Ruskin. The Ross Park entrance has a bridge. Kemper Road west of State Route 4 has a bridge, and finally Glensprings Drive east of State Route 4. For years, whenever we were required to have our bridges inspected, the City has taken care of our responsibility. We employed CDS to perform the task for us. Unfortunately, a number of other jurisdictions have not completed their bridges inspections. That raised a concern for both the state as well as the federal government. As a result, ODOT was able to secure a grant from the federal government to perform bridge inspections for communities. As long as the community is in agreement, ODOT will come out and perform the inspections. If they (State) offer the program to one community, they must offer it to all. It doesn't matter whether we have been paying for ours in the past or not. They still would have to offer it to the City of Springdale. I would like to suggest to Council that we adopt legislation to enter into agreement with ODOT and authorize them to perform the inspections on our City bridges this year. The program will be no cost to the City. It will be a part of the grant they have throughout the State of Ohio to perform this service in a number of communities. We would ask for that legislation, if you are in agreement, for the July 16<sup>th</sup> meeting.

Second item I have is we have had discussions relative to trying to identify a supplier for our Electric Aggregation Program. The group that we have been partnering with, served by Eagle Energy as our broker, received bids for the gas program this past week. The City's gas program expires this October and so we will really need to lock something in before the winter season starts. With the electric program, the battle we have been going through is trying to identify a low enough supplier. New bids for that program are being received in the next week. They were originally scheduled to be submitted for today, but several bidders asked if it could be postponed until Monday. As a result, those bids are going to be received by Eagle on Monday. Eagle will examine those results and then the group will get together and discuss the outcome. In the meantime, I received a call about a week ago and I believe the Mayor received an email from this other group, called Community Gain, soliciting us. I had a discussion with them relative to a program they run, referred to as a reverse auction. For those of you who may go on Ebay, when you bid, you are selling for the highest bid. With this, we are bidding for the lowest bid. It is actually a live auction in which they have indicated to me there are 22 suppliers in our region. Not everyone would perhaps participate in the process. We would not know unless we were in the program to solicit bids. They would put our load, if you will, out on the market, define the load, and the providers would then bid in real time to supply our electric. We would establish a date; let's say that date is going to be this Friday at 3:00 p.m. Everyone who wants to bid to serve as our Electrical Aggregate would simply submit a bid. They would see it in real time. For example, if the Mayor decides to bid, I can watch what his bid is and then submit a lower bid if I think I can provide the generation for the program at a comfortable rate.

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Mr. Parham (continued): During my discussions with them, one of the challenges with their program is they have indicated to me that they really need a really quick turn-around. They need a decision within a 24-48 hour period because the suppliers wish to avoid purchasing some sort of insurance that they need to purchase if the bid sits out for a longer period of time. Again, this is a very weird industry. We are trying to learn it constantly. I would like to propose to Council something we have done before. If you recall, when we first started with this electric energy business, I asked if you would give me the authority to identify a low supplier program for our City facilities, I would have the ability to lock the City into the program. I am asking the same here. Even if we hold the bid, using our example of 3:00 p.m. on Friday, the lowest bid could come in, however, we do not have to accept that low bid. It is still our decision whether we want to engage them or not. Part of the challenge that we currently are seeing in the energy market, is the rates are continuing to rise. In talking to a representative from one of the other communities that partners with us, he said that he is pretty much in the mind set that we are probably going to be with Duke for another year because the rates continue to rise and it's becoming noncompetitive. It is a challenge for groups to even beat Duke's Price-to-Compare rate, and that's the number we shoot to beat. Everybody knows Duke's number. If you do nothing and you simply stay with Duke, that's the rate you're going to pay, but we're trying to get a lower than that. We had a phenomenal number that just expired. I don't think we are going to get that number but we're still trying to have conversations and see who else is out there and what other programs are out there. We are not necessarily saying we're sold on the reverse auction, but we want to explore it and if it's something that we think will be advantageous to us, we'd like to take advantage of the opportunity. With that, I'm willing to address any questions you might have.

Mr. Hawkins: If we go through that bid process, we're under no contractual obligation to accept that bid, but what is their obligation with regard to maintaining that bid for those services and over what period of time is that held out for?

Mr. Parham: I'm not sure yet. I still have some questions I have to identify the terms of what period of time we are considering. If you gave me this authority, and the program looks good for us, we can lock it a favorable rate and then we'll enter the contract with them. Although it is a live bid, as the final bids come in, if we decide we don't want to participate and we don't participate. If we see something that's to our favor and we want to take advantage of it, we have a very short time frame to be able to lock it in with that bidder.

Mayor Webster: Mr. Hawkins, is your question how long is the contract going to be for or how long do we have to respond?

Mr. Hawkins: How long can we hold that bidder to offering the services for that bid?

Mr. Parham: Twenty-four to 48 hours.

Mayor Webster: That's why this is somewhat unique.

Mr. Hawkins: Then on the legislation for next meeting regarding ODOT to have the authority to inspect the bridges, do you need an Emergency Clause on that?

Mr. Parham: Yes. They forwarded to us one of their examples. It's pretty bare bones but we'll adjust it and make it fit for us.

Mr. Vanover: Any other questions on Aggregation?

Mr. Hawkins: Do you want some action with regard to that in terms of the bid process but I would say that I'm in support of going through and looking at that personally.

Mr. Parham: We would like if Council would perhaps entertain a motion.

Mayor Webster: To give us the authority.

Mr. Squires: To give us the authority to look at those bids?

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Mayor Webster: Yes, if it's favorable to the City, give us the authority to go ahead and accept the bid and then we'd have to do the formal contract later on, but it would give us the authority to go ahead and commit the City to that process.

Mr. Hawkins: I move to grant authorization to the Mayor, Clerk of Council, and Administration to examine the bid process for Electric Aggregation.

Mr. Squires seconded the motion.

Mayor Webster: What we need is the authority to enter into an agreement to commit the City, not just to enter into the process, but we need to commit the City within 24 to 48 hours if the bid looks favorable to the City and it's lower than the Duke rate.

Mr. Hawkins: I withdraw that motion and make a motion to authorize the City to enter into an agreement with regard to Electric Aggregation and a bid if it is favorable to the City.

Mr. Squires seconded the motion.

Mr. Vanover: I guess I just have one question. I've heard of reverse auctions before, is this a new common occurrence in the electric power generation field now?

Mr. Parham: My initial call came from a gentleman who was the former City Manager of Vandalia. He and I have known each other for a while. He is now working with this group and apparently they have been reading our minutes. My understanding is this is something that is going on in the Dayton area and maybe points north of here. But the process of reverse auction is nothing new; it's just how we get there. What they will tell you this is more of an advantage for you versus what they refer to as 'post a RFP and have someone respond', which is what we generally do and what we've been doing with the other group.

Motion passes with seven affirmative votes.

Mr. Parham: Thank you.

Mrs. Emerson: Mr. Parham, a quick question back on the ODOT inspecting the bridges, what kind of money does that save the City?

Mr. Parham: \$2,500, somewhere around there, if that?

Mr. Shvegza: It wasn't much.

Mr. Parham: It's not much; I don't know the number exactly.

Mrs. Emerson: Okay, thank you.

Mayor Webster: What Derrick forgot to tell you is that by the State doing this, if they find Ross Park Bridge in disrepair, they're probably going to pay for having it repaired.

Mr. Parham: I pray that would happen.

Mr. Vanover: Can we get a reverse bid on that one?

Law Director's Report

Mr. Laux

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no report

Engineer's Report

Mr. Shvegza: A couple of items. The West Kemper Road Rehabilitation Project - that does go out for advertisement for bids tomorrow. We've been working with utilities as far as their relocation work and it looks like both Duke Electric and Gas will be beginning their relocation work in late July. With regards to some of the utility work at that point in time can delay some contract work so now we're looking at part of the project, the roadway construction work, being done summer of next year, basically during the vacation period for the school.

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Mr. Shvegza (continued): Ashmore and Woodvale reconstruction - some work has begun; they've basically been saw-cutting the pavement for both the curb removal and the storm sewer installation. It's anticipated right now that storm sewer work on Ashmore will begin next week. Nothing new on the street program other than the fact that it appears the contractor is beginning some of their work to mitigate some of the issues with the pavement. I did notice on Fairsprings there were no parking signs posted there for tomorrow and Friday. That concludes my report.

Mr. Parham: Just a follow up on the street program. The staff had a meeting with the contractor, I believe it was today. We were notified that they are going to go back in and make the repairs that we've talked about relative to the pavement work. The other item which was brought up recently at a Housing Board Committee meeting was the appearance of the concrete work on both curbs and some of the drive aprons. As I think was reported to you at the last meeting. We are engaging a third party engineering group to run tests on the concrete. They will pull cores and test those cores to see if it is a product issue. They are going to pull cores in some of the areas that were identified and so hopefully we'll reach a resolution with that issue as well.

### Communications

Mrs. McNear: I do have one letter this evening. This is from Daniel J. Mastrullo, at 518 Lafayette, Springdale, 45246, dated June 16<sup>th</sup>, addressed to Clerk of Council:

*This letter is addressed to every member on Springdale City Council and the Administration. It is time for a community in Hamilton County Ohio to step up as a leader. And "why" not Springdale?*

*It is time for a law or ordinance against males and females wearing their pants down, in order to show their underwear and sometimes more. Nobody in their right mind wants their family or themselves having to look at that!*

*I think every community is just waiting for the first one to start. And they all will follow. As for businesses it should help many.*

*Need also for Springdale Health Department to help enforce in restaurants with signs etc.*

*Pants were made to wear on the lower body at the waist not hang at the knees. Don't let a few, look like I don't know what in our city.*

*Enforcement with fines and more. To show we mean business.*

*I have one question for City Council, before somebody laughs at my letter. Give me one good reason why they should be able to wear their pants with everything showing. And I will give you 10 good reasons why they should not be able to wear their pants with everything showing.*

*Sincerity  
Daniel J. Mastrullo*

Communications from the Audience - none

### Ordinances and Resolutions

#### ORDINANCE NO. 20-2014

CONFIRMING THE DESIGNATION OF DEPOSITORIES BY THE FINANCE COMMITTEE OF COUNCIL FOR THE ACTIVE AND/OR INTERIM DEPOSITS OF THE CITY OF SPRINGDALE, OHIO; ALSO DECLARING ALL PUBLIC MONIES COLLECTED OR TO BE COLLECTED DURING THE PERIOD OF DESIGNATION TO BE ACTIVE OR INTERIM DEPOSITS; AND ESTIMATING THE PROBABLE MAXIMUM AMOUNT OF MONIES SUBJECT TO DEPOSIT THEREIN AT ANY TIME DURING SAID PERIOD AND DECLARING AN EMERGENCY.

Mr. Squires made a motion to adopt; Mr. Knox seconded. Ordinance No. 20-2014 passed with 7 affirmative votes.

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ORDINANCE NO. 21-2014

AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF SPRINGDALE AND THE BOARD OF HAMILTON COUNTY COMMISSIONERS FOR MUNICIPAL ROAD FUNDS (MRF) RELATIVE TO THE IMPROVEMENT OF WEST KEMPER ROAD FROM 200' WEST OF WALNUT STREET TO LAWNVIEW AVENUE AND DECLARING AN EMERGENCY

Mrs. Harlow made a motion to adopt; Mr. Squires seconded.

Mr. Parham: Council, towards the end of last year, if you recall, we applied for SCIP funding and MRF funding for our West Kemper Road project. We received approval, I think in September, for the SCIP funding. We were then waiting until March before the recommended list of projects was to go before the County Commissioners. At that meeting, they approved the recommended list of projects from the County Engineer. Now we are at a point and what this legislation is doing is now taking our project from that list and saying we want to enter into an Agreement with the County Commissioners. They are still going to provide the \$225,000 towards our West Kemper Road project. We just received this I think about a week or so ago in the mail.

Ordinance No. 21–2014 passed with 7 affirmative votes.

RESOLUTION NO. 7-2014

AUTHORIZING THE MAYOR AND THE CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT OF COOPERATION WITH HAMILTON COUNTY, OHIO PURSUANT TO PROVISIONS OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED

Mr. Squires made a motion to adopt; Mrs. Harlow seconded. Resolution No. 7–2014 passed with 7 affirmative votes.

RESOLUTION NO. 8-2014

ADOPTING THE TAX BUDGET OF THE CITY OF SPRINGDALE FOR THE YEAR JANUARY 1, 2015 THROUGH DECEMBER 31, 2015

Mrs. Emerson made a motion to adopt; Mr. Squires seconded. Resolution No. 8–2014 passed with 7 affirmative votes.

Old Business

- none

New Business

Mayor Webster: Yes, I'd just like to add a few comments on the letter that Mrs. McNear read from Danny Mastrullo out there regarding the pants on the ground or whatever you want to call it. I know there are shopping centers in the State of Ohio that have regulations about you have to have shoes, you have to have a shirt, you have to have pants around your waist. If you want to wear a hat, that's fine, but you'll have the bill facing forward. You know it's not a gangster mall or a gangster restaurant or a gangster city or anything else. I would like to see Rules and Laws take a look at that just to see if it's legal to do something like the pants on the ground issue and see what the practicality of it is. I had a situation personally this year where I was in a restaurant. A young man next to me had his pants down to his knees, his underwear hanging out. He decided to lie down on the bench and I finally looked over at him and said young man, I happen to be in here dining and I don't particularly want to look at your 'you know what' while I'm eating. Much to my surprise, the mother was sitting across the table and she took offense to that. She raised a little hell but the manager came over and asked the young man to sit up in the seat and to pull his pants up and that's all I asked. I think when people don't use their head, that's why we have 90% of the rules on the books, is because people don't have common sense. I think for anyone to walk around with their pants down to their knees, it just showing they don't have good common sense and so unfortunately, society has to intervene and I would like to see us take a look at it.

Mr. Diehl: I wonder if the Law Director would like to comment on this.

Mr. Laux: As far as ordinances or resolutions or something limiting?

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Mr. Diehl: Yes, could we do what we wanted to do and so forth?

Mr. Laux: Eventually you're going to start running into First Amendment constitutional concerns there, especially if you're going to be passing public laws restricting what people can wear and how they can wear it. There's also a distinction between private premises and public premises and what types of rules you can enact that would restrict what's allowed to be worn within both types of institutions. Private premises generally have more power - no shoes, no shirt, no service is a prime example of that. Public premises where every citizen has a right to be, there are more restrictions that are at play, particularly with regard to the First Amendment. I'd need to look into it with some more specificity, to get back to you on that, if you have a specific question on that. But the general rule is that the First Amendment, courts are pretty zealous in protecting that, individual citizens' rights of expression as far as what they are allowed to wear.

Mr. Diehl: Would that constitute being obscene in any way?

Mr. Laux: As far as just wearing your pants down?

Mr. Diehl: Yes.

Mr. Laux: Not in and of itself. I don't think just wearing your pants down to the ground would be necessarily meet the constitutional definition of obscenity, which there's a test for that, that the United States Supreme Court has laid out; it's defined by community standard, but I'd need to see what the specific language of the ordinance was first before I could comment any further.

Mr. Diehl: I don't mean to pick on you.

Mr. Laux: No, that's fine; that's what I'm here for.

Mr. Diehl: You mentioned community standards, can you define that?

Mr. Laux: No, it's an objective standard; it's by virtue of the fact that it's an objective standard; it's going to be measured on a case-by-case basis. Courts are going to look at each particular set of facts as they come along and decide whether it meets a community standard or not. I can't really give you any more guidance or direction without seeing the specific language of a proposed ordinance and what the restriction is.

Mr. Diehl: We'll get back with you.

Mr. Laux: Sure. I'm sorry I can't give you any more specific definite guidance on that. I'd need to see a proposed ordinance first, and then go look at some case law, to come back and see if the United States Supreme Court or the Sixth Circuit has updated that within the last year or so.

Mr. Diehl: I think some other people have some questions for you.

Mr. Laux: Sure.

Mr. Hawkins: Being in the generation I'm in, I have a unique perspective. The Law Director indicated and touched on some of this, you have to be careful on some of this because some of this is expression of speech, so to speak. You get some cultural, subcultures, whether it's hip hop culture, what have you, where folks are going to express themselves in different ways. I'm not saying that you need to look at somebody's rear end while you're trying to enjoy a meal but I think we have to be careful in terms of the constitutional privileges and rights that are out there with regard to the way some folks are going to express themselves. All that being said, I do believe that the State of Ohio, and I would assume our own ordinances, we can check, do have laws that deal with indecent exposure and people can be charged with said offense and crime.



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Mr. Hawkins (continued): The laws of the State of Ohio protect the residents of Springdale; we may have ordinances specific to indecent exposure as well. The question may be what specifically the elements of that offense are and what meets that standard for someone committing that offense. I don't know that someone showing the top of their underwear is going to meet it, but it's all relative because if you walk down the street in your underpants, that would probably be a problem. So there are some protections that we have there; I don't know what that code section says specifically, but I don't want folks to think that we have no protection with regard to people running around naked or half naked. We do have some in there; I'd have to check the code to see what that said specifically regarding it.

Mr. Knox: Many of the ordinances including some from this evening have the phrase "preservation of public peace, health, safety and general welfare". Every time I see one of these people with their pants down low, I worry about them falling and hurting themselves. Could we approach this from a safety viewpoint?

Mayor Webster: I think Lawrence summed this up pretty well, if I walked through these doors in my underwear, I'd be in violation. So maybe it gets down to how much my underwear is allowed to be shown? I've seen some of these people walking around with more than 50% of the boxer shorts are showing. The pants are down below the curve of the buttocks. If that isn't obscene, I don't know what the hell is. So maybe we need to go back to the ordinance that outlaws obscenity and maybe further define that - how much of the underwear are you allowed to show? I agree, you see the band of the underwear, well nobody's offended with it, but if you've seen as much as I've seen, when you see the buttocks, with the pants hanging down below the buttocks, I think that's gone too far and that's obscene as far as I'm concerned.

Mrs. Emerson: First of all, I think it's going to be whatever terminology we all come up with, I think it's going to be pretty hard to enforce. I'm not sure the drooping pants is as bad as the women who run around with half of their breasts exposed and we don't do anything about that and that's true flesh versus underwear. I think we're spending a lot of time on this and I don't know if we're going to be able to get the right verbiage down to enforce it anyway. I think it's just something it is the way it is.

Mr. Squires: It's not the fact that Council, or anyone else for that matter, wouldn't like to see some things like this proposed, but writing the legislation to enforce that is going to be extremely difficult. As Counsel has said, you've got the First Amendment staring you right in the face and the courts are very jealous of that. They really guard that as being very sacred. Yeah, I'd like to see it; see some form of dress code, if you will, but I don't know how we would write it.

Mr. Diehl: You know what the old saying is, I don't know what's obscene, but I'll know it when I see it. We do have some obscenity laws here, and maybe we could take a look from a legal standpoint what we can enforce and what we can't enforce.

Mr. Hawkins: In terms of the State Code for Ohio, 29.07.09 for public indecency, it is specifically addressing people exposing their private parts, engaging in sexual conduct or masturbation or engaging in conduct the ordinary observer would appear to be sexual conduct or masturbation in nature. So it goes to the extreme, opposed to someone walking around revealing undergarments. I say that to say the whole thing comes back to I think there's some constitutional hurdles if folks want to pursue that. You're also going to have some folks that going to be upset in general with regard to their cultural viewpoint and/or their expression of freedom of speech. There are going to be some constitutional hurdles I think in trying to set up some type of ordinance that goes beyond that, when you're starting to tell people how they have to wear their clothes if they're not exposing their private parts. If Council says they want Rules and Laws to look at that, Mr. Knox and I will do that but I think there are some difficulties there but whatever Council wants to do is fine.

Mrs. Harlow: I don't like to see it either but you can not legislate morals or ethics and that's what it gets down to. So it's up to the mothers and the families out there to tell your kids to pull your pants up and I just don't think we can legislate that.

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Mr. Vanover: I am in agreement that it's not something I relish to view. Quite honestly, I've wondered how some of them can walk, because they're holding their pants up just slightly above their mid-thigh and their knees. Mr. Diehl brought up the old adage that grandma would say your rights end where my nose begins. I have no doubt there's some challenges. I have no problem referring this to Rules and Laws to take a look at and the Counselor is correct in that he can't really do anything until we have something in black and white to hold up to the yardstick to see. What does everybody else have?

Mr. Diehl: I probably agree with Mr. Hawkins on this, that we probably can't come up with a solution to this. Recently Mr. Hawkins and I attended a town meeting in Lincoln Heights and different things mean different things to different people. Even though I would like to see something happen and I agree with you totally, I don't know if there's much we can do about this. I would not recommend going to Rules and Laws.

Mr. Squires: In light of what everybody has been saying and some of you can relate to this, if you think back upon your school career, I think I was on the professional end of that for about 34 years. Obviously there were some significant changes made over that period of time. I can well remember when you had to wear shoes and socks; now you don't have to do that, you can wear these flip flops. I can well remember when shorts were not allowed but that isn't true any more. I can well remember when you had to wear shirts; even white underwear t-shirts were not allowed. I have been in the school system, mainly Princeton, when I first started there, they had the Dean system there; I've seen kids sent home because they didn't wear the appropriate dress. They have been challenged in court and that First Amendment comes back and hits us in the face with it. And now it's almost anything goes, I guess. It's just going to be difficult to write this. I'd like to see it; I'd like to see us go back to some basics but I just don't know how we can write it.

Mrs. McNear: I think this is one of those things that we can hopefully look at that will fall into the category of this too shall pass. I can remember when I was in teenage/preteenage years; it was the Beatle haircuts was something that we all looked at with disapproval. When my children were teenagers they were shaving their heads every week; I don't like that either but there's always something like that that's coming for people who need to make a statement of some sort. Some of them are more offensive than others; I don't like to see this either but I don't think it's something that we can legislate. Hopefully this will pass, hopefully sooner rather than later. It is offensive because you are seeing someone's underwear; however, if you think about it, you're seeing less than you see at the swimming pool. I think from that standpoint, I don't think we can really legislate how people dress and what their morals are. I think Mrs. Harlow is right - it goes back to the family and what you will tolerate for your children to do. There are times that I'm out and I see the way some children are dressed and a lot of times I'll say "That's why I didn't have girls" because it would have been World War III at my house, seeing the way some women are dressed and that applies to young men too; there are some things that are just inappropriate outside of the home, in public, but again, I don't think it's anything that we can really legislate. I don't think businesses are going to look to us to control that either. There are a lot of problems in the world and we can't fix them all and I think this is one that we have to give lower priority to than many others. Thank you.

Mr. Vanover: I agree wholeheartedly with Mrs. Harlow. Home is where it all starts and where we at least got our compass bearings, hopefully. I would be interested if there is anything another municipality in the state, if we could just do a cursory look at that; we'll kind of let it sit at this point, see what we can find and then take it from there. But I agree, this definitely would be an uphill battle and quite honestly, good luck, bad luck, depending on what side of the bench you're on, I very well could see this climbing the ladder of the Ohio State court system. Be that as it may, unless we have anything else to talk about, we'll move on.

### Meetings and Announcements

Mrs. Harlow: Planning Commission will met July 8<sup>th</sup>, 7 p.m. in these chambers.

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Mr. Thamann: Several years ago the city had a city-wide blood drive, I think during the centennial celebration. Our Health Commissioner is working with Hoxworth Blood Center to set up another city-wide blood drive. We're looking at having it July 28<sup>th</sup> through August 2<sup>nd</sup>. I don't have many details right now; this was just announced the other day but I do know Hoxworth will provide all the posters and promotional material for it. We'll also get it on our webpage and Facebook as well and get some advertisement down at the Community Center also. If you're interested, again July 28<sup>th</sup> through August 2<sup>nd</sup>; Hoxworth number is 451-0910 if you want to call for an appointment or stop by at the Springdale center here at 11812 Springfield Pike.

Mr. Hawkins: Board of Zoning Appeals will meet on July 15<sup>th</sup> at 7 p.m. in these chambers.

Mrs. McNear: Mr. Thamann, was there any consideration given to having the mobile blood van at one of our events?

Mr. Thamann: I just talked briefly with Mrs. Mitrione this afternoon and with her discussions with Hoxworth, since it's so close to our facility right here and the community, we thought why bring the mobile unit out here when we have the facility right here and I think that's what they're hoping - people just use the facility.

Mrs. McNear: I see, I just thought there'd be a large group of people that may be interested in stopping in that may not make it during regular hours at the Hoxworth Center but if they're already here for another event, that may generate some additional business.

Mr. Thamann: I can talk to her; like I said, I don't have many details. I don't know what the hours are over at the center but I don't think they close at five.

Mrs. McNear: But sometimes, out of sight, out of mind. You just don't get around to doing it, but if you're already there, you got plenty of time to spend 30 minutes there.

Mr. Thamann: We'll carpool you over.

Mr. Vanover: Lure you in with cookies and orange juice. While we're on meetings and announcements, a reminder to everybody up here but also to the public that we go into our summer schedule, so our next Council meeting will be July 16<sup>th</sup>, these chambers, 7 p.m.

Mrs. Harlow: I will not be at the July meeting; I will be out of town.

### Communications from the Audience

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Dan Shroyer: My name is Dan Shroyer. I live at 249 Ruskin Drive. On the subject of pants on the ground, I would encourage Council not to pursue that issue. I'm probably as offended by it as anybody is but in the 70's, folks were probably offended by the length of my hair, by some of the clothes that I wore, those types of things. We have a lot of ordinances on the books; we have a lot of legislation that controls how people behave; I don't think we need more and we certainly don't need more to tell people how to dress, again, not that I endorse it but that's their prerogative. I've had occasion in the last couple weeks to go to swimming lessons with my four- and five-year old grandchildren. Our lifeguards employed by the city wear less than some of the folks that I have seen with their shorts down. Yes we're seeing underwear, but we're seeing underwear. If they had on two or three layers of clothes, we'd be seeing the second pair of shorts or the third pair of shorts, whatever we're seeing. We're not seeing anything obscene; we're not seeing anything that you don't see at our public swimming pool by our lifeguards employed by the city. You go to a beach in Florida or any place else and you look at thong bikinis, you're seeing a whole lot more than that. Yes, it's offensive; yes, it's irritating but it's a personal choice. I would hate to see our Council get involved in legislation that starts to legislate personal choice. Again, if you go back to the 70's, and we don't like that fact of how they're wearing the pants but if you don't like the way I wear my hair, can you legislate that as well? I would discourage council from getting involved in that or go down that avenue. Thanks.

Mr. Vanover: Point taken. Thank you, sir.

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Mrs. Emerson made a motion that the Council go into Executive Session as a Committee of the Whole to discuss Economic Development. Mr. Squires seconded. Motion passed with seven affirmative votes; Council departs Chambers at approximately 8:15 p.m.

Council reconvenes in Chambers at approximately 8:25 p.m.

Update on Legislation Still in Development

Mr. Hawkins: If you look at your memorandum, Item I was disposed with Ordinance No. 20-1014, which passed with 7-0 vote. Item II was dealt with with Resolution No. 8-2014, which passed with 7-0 vote. Item III was addressed with Resolution 7-2014, which passed with 7-0 vote. Item IV was addressed with Ordinance No. 21-2014, which also passed with a 7-0 vote. Items V, VI, and VII, VIII, and IX are all forthcoming.

Recap of Legislative Items Requested for next Council meeting

Mr. Hawkins: There's a request for an Ordinance authorizing a Contract with the Best Bidder for the West Kemper Road Rehabilitation Project and Declaring that an Emergency. There is a request for an Ordinance Assessing Property Owners for Improvements Made Related to Their Drive Aprons under the 2012 and 2013 Street Improvement Programs and Declaring that an Emergency. There is a request for an Ordinance Authorizing the City to Fund the Employees' Health Savings Accounts in 2014 and Declaring that an Emergency. There is a request for an Ordinance Accepting a Bid Authorizing the Mayor and Clerk of Council/Finance Director to Enter Into a Contract for Gasoline and Diesel Fuel and Declaring that an Emergency. There's also a request for an Ordinance Authorizing the City to Participate in a Group Rating Program for Workers' Compensation for 2015 and Declaring that an Emergency and there's a request for an Ordinance Authorizing the Ohio Department of Transportation to do our bridge inspections and that also with an Emergency Clause. I believe that concludes all items requested for next Council meeting.

Council adjourned at 8:28 p.m.

Respectfully submitted,

Kathy McNear  
Clerk of Council/Finance Director

Minutes Approved:

Tom Vanover, President of Council

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