

REGULAR MEETING

in Council Chambers @ 7:30 p.m.

February 28,

19

1. **CALL TO ORDER.** President of Council Kilway called the Regular Council meeting of Thursday, February 28, 2019 to order at 7:30 p.m.
2. **PRAYER:** Pastor Doug Walter, First Church of God, Tallmadge.
PLEDGE OF ALLEGIANCE:
3. **ROLL CALL:** Mr. Carano, Mrs. Kilway, Mr. Loughry, Mr. Sisak, Ms. Tricaso, Mrs. Allman – present. Also present were Mayor Kline, Dir. of Pub. Service Rorar, Dir. of Administration Cooper, Dir. of Econ. Development Weinberg, Dir. of Law Raber and Clerk of Council Burton. Mr. Donovan and Dir. of Finance Gilbride were excused.
4. **MINUTES:** 2-14-19 Regular Meeting minutes.
Mr. Sisak moved to adopt the Regular Council meeting minutes of 2-14-19. Seconded Ms. Tricaso. Voice vote 6-0. **The 2-14-19 Regular Council Meeting minutes were adopted by a vote of 6-0.**
5. **FINANCIAL REPORTS:** None.
6. **PUBLIC HEARINGS:**

**Ordinance 24, 2019
PUBLIC SERVICE
P.H. ON 2-28-19 @ 7:33 P.M.**

At 3rd Reading.
Amending Chapter 1195.09 Erosion and Sediment Control of the Tallmadge Codified Ordinances and providing for immediate enactment.

Pres. of Council: It is now 7:33 p.m. and I call the public hearing for Ord. 24-2019 open. Is there anyone who would like to speak in favor of Ord. 24-2019? Please come to the microphone and state your name and address for the record. These meetings are recorded. No one responded.

Is there anyone who would like to speak against Ord. 24-2019? No one responded. Second time; is there anyone who would like to speak in favor of Ord. 24-2019? No one responded.

Is there anyone who would like to speak against Ord. 24-2019? No one responded. Third and final time; is there anyone who would like to speak in favor of or against Ord. 24-2019? No one responded.

It is now 7:34 p.m. and I will call the public hearing for Ord. 24-2019 closed and I will recognize the Public Service Chair, Mrs. Allman.

Mrs. Allman: I open the Public Service Committee; myself and Mr. Loughry are here. Mr. Donovan is excused. Is there any discussion on Ord. 24-2019?

Mr. Loughry: I would recommend that we adopt this.

Mrs. Allman: Is there any other discussion? No one responded. I will close committee. Madame President, I move to adopt Ord. 24-2019. Seconded Mr. Loughry. Roll Call: Mrs. Kilway, Mr. Loughry, Mr. Sisak, Ms. Tricaso, Mrs. Allman, Mr. Carano – unanimous. **Ord. 24-2019 is adopted by a vote of 6-0.**

7. **COMMUNITY INPUT:**
Pres. of Council: Tallmadge City Council meets on the second and fourth Thursday's of the month with Council Committee meetings starting at 7:00 p.m. followed by the Regular Council meeting. At the Committee meetings legislation is discussed thoroughly with Council deciding to adopt, amend, reject, hold or table the legislation. We do allow time for community input at this point in the meeting. If there is anyone who would like to address Council, please come forward and state your name and address for the record. No one; OK.
8. **ANNOUNCEMENTS:** None.
9. **REPORTS OF SPECIAL COMMITTEES:** None.
10. **AGENDA ADDITIONS:** None.
11. **REPORTS OF ADMINISTRATIVE OFFICERS: MAYOR, DIR. OF PUBLIC SERVICE, DIR. OF ADMINISTRATION, DIR. OF ECONOMIC DEVELOPMENT, DIR. OF FINANCE AND DIR. OF LAW.**

Mayor: Thank you Madame Chairman. I had the opportunity today to visit the **new construction for the school district** I went through the Middle School and it is really looking nice. They are on target and they will make the deadline to be open for I think August 16th or August 23rd I think for the school year. Somewhere around the end of August they will be ready to go. So for all of the students going to the Middle School next year; none of these, but it will be ready to go and then the elementary school will be on target to be open for January and so it is looking pretty good up there.

I would ask for your consideration for a **1st Reading adoption on Ord. 32-2019** which is a donation from the City to Stark State; some radios and we can talk about that when it comes up. It is Item 15. Thank you.

Dir. of Pub. Service: I have no report this evening.

Dir. of Administration: Good evening. No report this evening.

Dir. of Econ. Development: Just briefly I just want to let everyone know that I am working with several companies that have outgrown their facilities and they are going to be looking at expanded locations and so there is no guarantee, obviously businesses make their decisions to move where they need to, but I am suggesting and trying to connect them with the new industrial

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Dir. of Econ. Development (Cont'd.) park that is coming out in the JEDD and that would be nice to be able to get some ahead of the curve there and jumpstart that project if possible, so we will do everything we can to encourage them to stay in Tallmadge or in the JEDD. So we will just see down the road. End of report.

Dir. of Law: Madame President, may I ask if we could address the alcohol permit during the Economic Director's report?

Pres. of Council: Yes, we are in receipt of a liquor application for a revised permit for alcohol for the Asian Food Market. Could we get some information on that please?

Dir. of Econ. Development: This application is for carry-out only in sealed containers. The Asian Market is just a retail store. It is located in the fine dining district, which is where we would have to have any kind of restaurants and so forth, but they do not fit the category of a restaurant, nor are they going to have open containers. So, internally I don't believe we have any objection to this, however, I did meet with the owners; I did meet with them and they do have some interest of opening a restaurant in the adjacent leased space and I did inform him that at that time there may be some significant limitations to that because they are located very close to the Adult Book Store and it is under 250' so he was made aware of that and so we will just have to wait and see if they want to pursue that down the road, but right now I have no objection to the current application.

Pres. of Council: OK, so this if for carry-out only and they already have a permit for beer; is that correct?

Dir. of Econ. Development: I am not aware that they have any permit.

Pres. of Council: No, they have none at all then. And they are in the same plaza as . . .

Dir. of Econ. Development: They are one storefront from the book store.

Pres. of Council: So Council then has to decide whether we want to . . .

Dir. of Law: Whether you want to ask for a hearing or not and the hearing would . . . generally we would need to note what that objection would be or what we were trying to pursue by asking for that hearing.

Pres. of Council: OK; Council?

Mr. Sisak: I guess my question is is the clarification on the liquor permit? It stays at the business owner or it stays with the address?

Dir. of Law: The permits usually filed with the name of the company or owner; I don't know if that . . . I don't have that; do you have that in front of you right now? They can potentially transfer that, but they have to go through the process of transferring that through the State.

Dir. of Econ. Development: But it would be for that particular kind of permit. So it can't morph into something else.

Mr. Sisak: And this is at the Rocco Plaza? Is it out front?

Dir. of Econ. Development: Yes.

Mr. Sisak: How long has this store been in business at that location?

Dir. of Econ. Development: I think they have been there maybe less than 6 months.

Pres. of Council: This is just for beer and wine only; is that correct because I am having a hard time reading this; I'm sorry?

Dir. of Econ. Development: It is for beer in sealed containers and wine and mixed beverages in sealed containers for carryout only.

Mr. Carano: I have no objection to the store itself. It can't be expanded to other use.

Dir. of Econ. Development: Many of the stores in Tallmadge have this same licensing. You can go up to Midway Plaza; you can go up to Giant Eagle and the gas stations would have a similar type of permit.

Pres. of Council: So, Council do we want a hearing on this or do we just want to just not have a hearing for it and let it pass? Mr. Carano; you are OK with it; correct?

Mr. Carano: I am OK with it. I would like to see what the consensus of what the Council is.

Mr. Sisak: I know we asked for one several years ago.

Pres. of Council: I don't think we have ever asked for a hearing.

Mr. Sisak: We asked for one.

Mayor: We were considering asking for one until we got clarification of what the actual permit use was going to be I think. We have never asked for a hearing.

Pres. of Council: It is up to the State Liquor Board to make sure that they abide by their regulations and everything. Mr. Loughry?

Mr. Loughry: I do not see a need for a hearing.

Pres. of Council: Is there anyone else? Are we good? Thank you very much.

Mr. Loughry: Mrs. Kilway; unless I missed it though; did we ever get a decision or clarification on the applicant at Shipper's Plaza; Mr. Shipper's Plaza?

Dir. of Econ. Development: The Scratch Kitchen?

Mr. Loughry: Yes ma'am.

Dir. of Econ. Development: I have not heard anything more about that. I know that now they have their occupancy. I spoke to the State . . . I don't know if they have finished their investigations as to whether or not . . . that plaza would need to I think go to the ballot. I don't think they have the ability to get it there in the Fine Dining, but they didn't have the ability to do it so I don't know where that stands. I would have to check in with them, but the establishment is probably going to be opening very soon because they just need the final inspections.

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Mr. Loughry: OK, so it is still in limbo right now?

Dir. of Econ. Development: As far as I know. I'll have to check on that.

Dir. of Finance: Mrs. Gilbride is not here tonight.

Dir. of Law: Thank you. I would like to ask for Council's consideration of Ord. 33-2019 at 1st Reading this evening. Thank you.

12. Ordinance 29-2019
PLANNING & ZONING

At 1st Reading.

Approving and granting a conditional zoning certificate for special non-residential development to property owner and applicant Tom Bader/1169 Brittain LLC-Home of Lehner Screw Machine for use as the educational institution in addition to the existing manufacturing.

Pres. of Council: **Ord. 29-2019 is at 1st Reading and is assigned to the Planning & Zoning Committee.**

13. Ordinance 30-2019
PLANNING & ZONING

At 1st Reading.

Approving and granting a conditional zoning certificate for special non-residential development to the applicant Alissa Nider and the property owner Amerco Real Estate Company for use as contractor services with material and equipment storage yard at 555 South Avenue.

Pres. of Council: **Ord. 30-2019 is at 1st Reading and is assigned to the Planning & Zoning Committee.**

14. Ordinance 31-2019
PLANNING & ZONING

At 1st Reading.

Approving and granting a conditional zoning certificate to applicant Boss Union Contracting Inc. on behalf of the property owner BGR Warehouse for contractor services with Material and Equipment Storage Yard at 132 Osceola Avenue.

Pres. of Council: **Ord. 31-2019 is at 1st Reading and is assigned to the Planning & Zoning Committee.**

15. Ordinance 32-2019
FINANCE

At 1st Reading.

Declaring certain City-owned personal property to be excess/obsolete and authorizing the donation of said equipment to Stark State College with certain conditions and providing for immediate enactment.

Mr. Sisak moved for the adoption of Ord. 32-2019. Seconded Ms. Tricaso.

Mayor: As you can see up on the screen, this is an ordinance allowing us 35 portable radios. Our old radios that we no longer are in need of, nor do they work for us because we have switched to the new radio system; we were asked by Stark State if we would be able to donate to them these radios. The purpose of them is they could talk . . . the radios could talk back and forth to each other, but not really out in the public and they will use them at their training facility and it is a perfect location for them and I am glad to see somebody being able to utilize them.

Pres. of Council: Is this for their fire training school?

Mayor: Yes.

Roll Call: Mrs. Kilway, Mr. Loughry, Mr. Sisak, Ms. Tricaso, Mrs. Allman, Mr. Carano – unanimous. **Ord. 32-2019 is adopted by a vote of 6-0.**

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16. Ordinance 33-2019
COMMUNITY ISSUES/SAFETY **At 1st Reading.**
An ordinance authorizing the Mayor to enter into a Memorandum of Understanding and Settlement Agreement relating to the Munroe Falls Shooting Range and providing for immediate enactment.

Mr. Carano moved for the adoption of Ord. 33-2019 at 1st Reading. Seconded Ms. Tricaso.

Mr. Loughry: Mrs. Kilway, we went into Executive Session; are the parameters the same so we don't need to go into Executive Session again? Then I'm good.

Mr. Carano: I would like to thank the Law Director for the fine work that she did in working on this deal so it is in the best interest of Tallmadge at the least cost wise and I appreciate what you have done. Thank you very much.

Roll Call: Mr. Loughry, Mr. Sisak, Ms. Tricaso, Mrs. Allman, Mr. Carano, Mrs. Kilway – unanimous. **Ord. 33-2019 is adopted by a vote of 6-0.**

17. Resolution 5-2019
COMMUNITY ISSUES/SAFETY **At 1st Reading.**
A resolution recommending an amendment to the United States Constitution abolishing the rights of corporations to be protected as persons under the United States Constitution and declaring an emergency.

Pres. of Council: **Res. 5-2019 is at 1st Reading and is assigned to the Community Issues/Safety Committee.**

Mr. Carano: Some people have come to speak on this issue. Would it be out of order to do that at this time?

Pres. of Council: Yeah, they can talk if they would like to. If you want to make a motion to allow them to speak you can.

Mr. Carano: I would like to make a motion to allow a few speakers to speak on this resolution. About 3 minutes?

Mr. Sisak: I will second that. Roll Call: Mr. Sisak, Ms. Tricaso, Mrs. Allman, Mr. Carano, Mrs. Kilway, Mr. Loughry – unanimous. **Speakers are allowed to speak on Res. 5-2019 by a vote of 6-0.**

Craig Coleridge, Outreach for Move to Amend, which is a national grass roots organization that is focusing on the topic of this particular resolution that calls for a Constitutional Amendment; it would be the 28th Constitutional Amendment to the United States and it would declare that only human beings, not corporate entities, have alienable constitutional rights and that money is not a form of politically free speech and there it can be regulated by entities like (City Councils, State Legislatures and Congress). This is a growing movement that began the day of the Citizens United Supreme Court decision back in 2010 and has since grown to include communities across this country numbering in the 600 to 700 number range of community municipal councils like this; City Councils, Township Trustees, Village Councils as well as municipalities that have placed this particular measure on the ballot for voter consideration with citizens collecting signatures and all that derives from the sheer frustration of the citizens is that they increasingly feel that their voices are not being authentically heard due to the increase of money in elections and if money is speech as it is now under the constitution then those who have the most money have the most political speech and that is not deemed to be a real good definition of anything approaching a real democracy.

The other provision of this particular resolution that has been drafted and will be for your consideration calls for this idea that only human beings and not corporate entities should have alienable constitutional rights which is how it once was in this country with corporate entities being defined through Charters; one at a time created by State legislatures and so in a sense this will go back to what this once was with corporations having statutory rights, but not alienable constitutional rights that was meant to be reserved for human beings.

So, I appreciate very much of your careful consideration of this resolution before you. If you do decide to pass this, you would join roughly two dozen other communities in Ohio that have similarly passed either resolutions or ballot initiatives and I would just simply conclude where this has gotten on the ballot, whether it has been, and not to be partisan about it, but blue, red, purple, green . . . any color you can think of communities; it has basically always passed and that is because of the sense that people's voices perceived if not in actuality politically are feeling that theirs are not authentically heard and again this is a way to affirmatively try to create real democracy.

Pres. of Council: Thank you very much. Is there anyone else real quickly that would like to speak on this? No one responded.

Res. 5-2019 is at 1st Reading and it is assigned to the Public Service Committee and I'm sure we will have some great discussion on that.

Dir. of Law: Madame, can I ask that maybe this be assigned to the Community Issues/Safety Committee; I think that is more appropriate than Public Service would be. If that is OK with you?

Pres. of Council: That's fine with me. Just a quick little note before adjournment; there will be a quick Richardson Trust Fund meeting after adjournment of the Regular Council Meeting to discuss the reimbursement of the fund and replacement of Mrs. Barbara Mattern. So, is there anything else to come before us this evening? No one responded.

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18. **ADDITIONAL ITEMS:** None.
19. **ADJOURNMENT:** Mr. Sisak moved to adjourn. Seconded Mrs. Allman. Voice vote 6-0.
The Regular Council meeting of 2-28-19 adjourned at 7:56 p.m.

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Adopted:

Susan E. Burton, Clerk of Council

Carol A. Kilway, President of Council