

Adopted
5-3-2021

NORTH COLLEGE HILL CITY COUNCIL

Minutes for Virtual NCH Council Meeting, April 19, 2021, 7:00 pm

Persons wishing to address Council prior to its dealing with current legislation may do so by registering with the Clerk of Council. Please provide to the Clerk, your name, address and the issue you wish to discuss.

Prayer

Call to Order 7:00 pm

Pledge of Allegiance

ROLL CALL

OPEN		Ms. Blythe	Present	Ms. Underwood	Present	Mr. Miller Novak	Present	
Ms. Zorb	Present	Ms. Hartman	Abs.	Ms. Anderson	Present	6 Present		

Ms. Zorb moves to excuse Ms. Hartman, Ms. Anderson 2nd. Motion passes 5-0

AGENDA: MS. Dewald add Cities and Villages and Texas Gas Transmissions brochure. Pres. Graver recognizes Mr. Deters is present tonight, recommends moving Mr. Deters report from Old Business to Law Director Report. No further discussion. Ms. Zorb moves to adopt the agenda. Ms. Anderson 2nd. Motion passes 5-0.

Meeting Minutes: Ms. Zorb moves to amend Ms. Anderson 2nd the 04-08-2021 minutes as follows, Saturday in the title should be Thursday and Ms. Anderson should be marked as present. Ms. Anderson 2nd. No further discussion. Motion passes 5-0.

Communications: Ohio Ethics Commission filing reminder, March/April Cities & Villages, Texas Gas Transmission, regarding pipe line safety.

COMMITTEE REPORTS:

Budget and Finance: Mr. Miller-Novak reports met last Monday, April 12. Discussed:

- Tax Budget, monthly February report
- Salary ordinance discussed, will most likely need executive session
- Discussed budget for the Sundale Project
- Next meeting May 10, @ 7:30 pm.

City Community and Development & Recreation: Ms. Anderson reports. Met April 12, 6:30 pm. Thanked Ms. Underwood for taking such great notes.

- Discussed what her vision and direction is for this committee
- Talked about Recreation Director, discussed job description, no current duties or goals, not financed or position filled at this time. Plan of action discussed.
- Mr. Mosby reported on recreation and development in the city, clean-up day and beautification efforts from the Unified Progress Committee (flower pots) and Chamber of Commerce getting trash cans for the city. Update on Dumley Park.
- Next meeting May 10 @6:30 pm.

Public Safety: Ms. Underwood reports. Not met since last Council meeting. Next meeting April 26 @ 7:30 pm.

Rules & Public Policy: Ms. Underwood reports. Not met since last Council meeting. Next meeting April 26 @ 6:30 pm. Discussion will be on council rules.

AD Hock Reports:

- Mr. Miller-Novak reports on The Unified Progress committee, meets second and fourth Saturday of the month. They are working with the Chamber of Commerce getting a selection of flower pots to set up along Galbraith and the Business district. Businesses who want to participate would partially fund them and care for them much like the "Adopt a Flower Pot" would work.
- Mr. Blaylock and the Mayor discussed opening the school track for public use in the morning and plans to open it in the evening later on.

Ad Hoc reports cont.

- Talked about a movie night and where it would be held. No location decision at this time.
- Possibly next year, 2022, a block Party with food trucks, live entertainment. Due to covid Car show will be next year and the Block Party could be another event happening in NCH
- Ms. Zorb asks if the flower pots could be purchased by residents also. Mr. Miller-Novak said, "Not right now, because the Chamber of Commerce would put some money into it, and also the care of the flower pots. The flower pots would be in front of certain businesses. The flowers would be alternating, seasonal so they would stay colorful as long as possible."
- Mayor Nichols adds if a resident did want to adopt a pot and nurture it, she would take this idea back to the committee for review.

ADMINISTRATIVE REPORT:

Mayor's report: Mayor Nichols,

- The school track is open from 6:00 am to 7:30 am. The track is not open to the public during school hours. And the lights are on.
- Clean-up day is scheduled for April 24. Registration 9:00 am to noon. Muffins, T shirts, bags, gloves are provided. Krimmers for lunch.
- CIC met last Thursday; next one is May 20th. She asks if anyone would like to come to the meeting to sit in and listen to see what goes on, maybe you would want to join that committee.
- We are looking for 2 people to be on the planning commission. If you know of anyone interested, please have them contact the Mayor.

City Administrator report: Ron Mosby

- Council moved to have the RFP done for the Comprehensive Plan. Mr. Mosby was able to get in contact with a student from NKU he is currently working on our comprehensive plan for his project. Looking forward to see what he is going to produce for that.
- Last week we had 2 consecutive users for the Electric charging stations. It is a source of revenue for us and an opportunity to use as catalyst to build around that. There is a growing usage of electric vehicles and increased usage of charging stations. With grant money we will be installing an additional 2 charging stations.
- The Sundale project overage is due to an increase in supplies and the sewerage discharge needs to be run east not west. He stresses the overage is with a contingency, which is a worst-case scenario. Council needs to pass legislation anyway, right now with law director for review and plans to have it by the next council meeting.

Law Director: Bill Deters: Power point presentation on Levy Campaign Compliance. The purpose of this is with 2 levies' coming up this year there is always a question of what we are and are not permitted to do as it relates to use of public funds and a levy. **See attached.**

Discussion: Ms. Zorb clarifies even though elected we are paid a very small pay check from the city. Are we considered an employee? He said when you are on the clock, while in a council meeting you would be prohibited from advocating for the passage of it but when you're not at a public meeting and not providing services to the city in that capacity you can do what you want when you want. The only time you would be prohibited is when you are at a meeting. While not serving the city, you can tell a person how you feel about the issue as a person and as a council member.

Mr. Mosby clarifies, if council debates for or against the levy at a council meeting is that prohibited? Mr. Deter's explains it's a fine line. If they were debating on the levy, the merits of the levy or if the levy should be on the ballot, that's all permissible. They have immunity as it relates to their legislative actions. It would be like after the levy was on the ballot and used their position to advocate for the passage of it. The legislative deliberation is valid. Mr. Mosby continues, just because a council member votes to put it on the ballot to let the public decide is no indication, they support it. They can clearly vote to put it on the ballot without indicating one way or the other if they support it. Mr. Deters confirms.

Law Director Report Continued

- Mr. Miller-Novak asks about legislative immunity. Doesn't it apply to one's own opinion? Mr. Deter's again reports it is a fine line. It all comes down to using the city's funding in a way you would be asking the voters to pass a levy. If in your debate, while in a meeting getting paid and you were advocating strongly for the passage of it, someone could perceive you were using the city's funding to advocate for it. But there is nothing that would prevent you from standing outside the building after a council meeting and having a crowd around you and asking the people to support the levy. As it relates to the comments you make as a council person there is admittedly some grey are there. Typically, he would ask council to refrain from advocating for the passage because it is not really necessary to use your time or comments on council to advocate for the passage because it just opens up the door for people to make arguments against it. Mr. Miller-Novak asks what are the consequences if someone messes up. Mr. Deters explains potential consequences could be anywhere from a slap on the wrist, or if in recovery it was uncovered that the councilmember involved was considered as using city funding the funds would have to be returned by the person who violated it. The biggest consequence would be the negative publicity surrounding it.

Finance Director Report: Ari Hall

- Reminds every one the income tax deadline May 17 is approaching.
- Finance Department is accepting tax returns as a courtesy to NCH residents. They will accept those returns and mail them to R.I.T.A. on their behalf.

Call of Members:

Ms. Blythe: No comment at this time

Ms. Underwood: Nothing at this time

Mr. Miller-Novak: Nothing

Ms. Zorb: Nothing at this time

Ms. Anderson: Very excited about Clean-up day

Legislation:

SECOND READING: Resolution 11-2021, A resolution determining to proceed with levying a replacement tax in excess of the ten-mill limitation.

COMMENTS FROM THE AUDIENCE: None

OLD BUSINESS:

- 1579 background check. No questions or discussion. Mr. Mosby reports unless there is some objection of the permit, then it just gets forwarded back to the state without objection. The police have done their check on it and found no reason for objection and he recommends it just get forwarded to the state.
- Pres Graver reminds Council there are still Council committee slots to be filled. OKI, CRA and TIF. Ms. Underwood asks if discussion can be tabled until we have the open council set filled to see if the new person might be interested. Ms. Zorb would volunteer to be the CRA and TIF person in the interim until that person is here. Pres. Graver recommends we do not have temporary replacements. We should wait until the new person is appointed

NEW BUSINESS:

- Motion to amend Resolution 05-2021. A resolution authorizing participation in the ODOT Road salt contracts awarded in 2021 and declaring an emergency. The amendment to the resolution is the amount of salt needed, 250 tons. Mr. Mosby explains the resolution to commit to the amount of salt is due by the end of this month. Mr. Miller-Novak moves to adopt. Ms. Anderson 2nds. Passes 5-0.

New Business continued

- Recreation director. Ms. Anderson moves that administration re-evaluates the current job description, duties and goals of the recreation director in order to begin the process of funding and filling the position. Discussed in Recreation committee so Mr. Mosby wouldn't have to take on these responsibilities. With a recreation Director we would be able to move forward on projects that we wish to do. This is a first step in a long list of steps to reach our goal. Ms. Underwood 2nd. No further discussion. Motion passes 5-0.

ADJOURNMENT: Ms. Zorb moved to adjourn. Ms. Anderson 2nd. No discussion. Motion passes 5-0.



Mary Dewald, Clerk of Council



Mike Graver, President of Council



Ennis Britton Co., L.P.A.
Attorneys at Law

Cincinnati • Cleveland • Columbus

April , 2021

City of North College Hill Levy Campaign Compliance

Presented by

William M. Deters II, wmdeters@ennisbritton.com

Scholars in Education Law



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Scholars in Education Law

Agenda

- Use of city funds in a levy campaign
- Use of social media
- City employees and administrators
- Use of city facilities
- When to use city funds
- 501(c)(3) organizations and political action committees

Supporting Statutes – Political Subdivisions

• R.C. 9.03(B)

- "... a political subdivision may use public funds to publish and distribute newsletters, or to use any other means, to communicate information about the plans, policies, and operations of the political subdivision to members of the public within the political subdivision and to other persons who may be affected by the political subdivision."

Political Subdivisions: Prohibited Use of Funds

• R.C. 9.03(C)(1)(e)

- Publishing, distributing, or otherwise communicating information that "Supports or opposes ... the passage of a levy or bond issue."

• R.C. 9.03(C)(2)

- Compensating employees for time spent on any activity to influence the outcome of an election; but may compensate employees to attend a meeting to present information that is not designed to influence the outcome of an election or the passage of a levy or bond issue, even though the levy or bond issue is discussed or debated at the meeting.

Use of City Funds in General

- **Prepare and distribute materials**
 - Newsletters, financial reports
 - City policies, actions, procedures
 - State and federal requirements
- **Advance public awareness** of the district's programs
 - Safety and security programs
 - Mental health programs
 - City operations
 - What will be provided if funds are obtained
 - What will not be provided if funds are not obtained

Use of Funds

- **Information v. Support**
 - Primary limitation of city's authority
 - May not expend public funds or use public employees to *support or oppose the passage* of a city levy or bond issue
 - Must be for *informational purposes* only
 - Materials may contain information related to the city's financial picture, revenues, expenditures, etc.



Use of City Social Media

• Prohibited

- Posting material that supports or opposes the passage of a levy or bond

• Permissible

- Advancing public awareness of city programs
- Distributing online reports and materials
- Providing information on city operations
 - What will or will not be provided if a levy passes or fails



Use of Employees

• Prohibited

- Using city employees to support or oppose a levy
- Compensating employees to distribute privately financed materials that support or oppose the passage of a city levy

• Permissible

- Expending public funds to present information about city finances, which may include the *discussion* of a levy issue
- Assigning one or more employees the duty of preparing city publications and materials

Employee Participation in Levy Campaign

- **City employee participation** in pro-levy campaign
 - Must work on their own time
 - Must work without financial support of the city
- **Hourly employees**
 - Should keep a detailed record of time to demonstrate that participation in this activity took place outside of the employee's normal hourly requirements
- **Salaried employees**
 - May participate in activities during regular work hours but should keep a detailed log or schedule to demonstrate that employee still worked 40 hours each week

City Administrators – Time and Resources

Permissible

- Attending meetings, presenting information, and answering questions regarding city finances, safety, operations, etc.
- Participating in support activities during regular work hours but *should keep* a detailed log or schedule to demonstrate at least 40 hours each week devoted to non-levy-related work

Prohibited

- Advocating for the passage of a levy during meetings while presenting information or answering questions on city finances, safety, operations, etc.
- Participating in support activities during regular work hours *without keeping* a detailed log or schedule to demonstrate at least 40 hours each week devoted to non-levy-related work

City Administrators – Time and Resources

Permissible

- Using city computers, equipment, and social media to provide information about the city, finances, safety, and impact of levy
- Using personal computers, email, and social media accounts to send information related to passing a levy
- Reminding people to vote on election day

Prohibited

- Using city computers and equipment to promote the passage of a levy
- Using city email and social media accounts to send information related to passing a levy
- Telling people how to vote on election day

Use of City Facilities

• Prohibited

- Denying a committee access to city facilities solely because it does not favor the city's position
 - May not grant access to city facilities for a pro-levy committee but deny access to another person or group that is opposed to the levy
 - Policy permitting or denying the use of city facilities or resources for political purposes must be content neutral
- Holding a closed organizational meeting on city grounds

• Permissible

- Permitting levy committees to use city facilities and supplies when they are not in use for city purposes if such committees request and pay for the use of equipment and supplies

Signage on City Facilities

• Prohibited

- Adopting a rule that prohibits the posting of signs solely because such signs communicate a view not favored by the city

• Permissible

- Adopting a *reasonable* rule to regulate the posting of signs concerning city levy issues on city property
- Permitting political action committees and city levy committees to post signs concerning a city levy or bond issue on city property pursuant to the city's adopted regulation

When to Use City Funds

• Screening Process

- Examine the nature and message of the information.
- Are public funds being used in any way used to advocate or oppose the levy?
- Would a reasonable and rational person perceive the material or information as advocating for or against the levy?

• Applications

- Reminding people to vote
- Sending information home with students
- Donation sites for levy campaigns
- Voter registration
- Employee poll workers



501(c)(3) Organizations

- Tax-exempt organizations or foundations that are organized and operated exclusively for a number a specific purposes
 - Education, PTOs
- Subject to federal regulations governing political activities
 - Prohibited from conducting political campaign activities to intervene in elections to public office
- May take positions on public policy issues
 - Caution: Must be careful that such advocacy does not become an endorsement of any particular candidate for public office including city city members



Political Action Committees

- **Definition: R.C. 3517.01(C)(8)**
 - “a combination of two or more persons, the primary or major purpose of which is to support or oppose any candidate, political party, or issue, or to influence the result of any election through express advocacy, and that is not a political party, a *campaign committee*, a political contributing entity, or a legislative campaign fund.”



501(c)(3) Organizations and PACs

• Donations to PACs

- 501(c)(3) entities may not make donations to PACs
 - Federal law prohibits political intervention

• Donations to Levy Campaign Committees

- 501(c)(3) organizations may make donations to levy campaign committees – so long as the actions of the levy campaign committee are not attached to any candidate for public office or in support of a particular political party



Questions?

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Thank You!

The information in this handout and presentation was prepared by Ennis Britton Co., L.P.A. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, please consult an attorney.



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Motion Passes
5-0
4-19-2021



MOTION

WE MOVE that resolution 2021-05, A Resolution Authorizing Participation in the ODOT Road Salt Contracts Awarded in 2021 and Declaring an Emergency, which was adopted by this council on February 16, 2021, be amended as follows:

d. The Political Subdivisions electronic order for Sodium Chloride (Road Salt) will be the amount the Political Subdivision agrees to purchase from its awarded salt supplier at the delivered bid price per ton awarded by the Director of ODOT, **which said amount will be 250 tons;** and

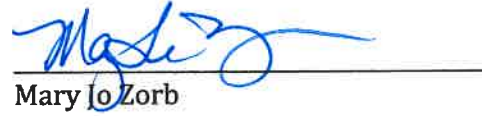
Marjorie Anderson


Luree Blythe

Elizabeth Hartman

Matt Miller-Novak

Arica Underwood


Mary Jo Zorb

This is to certify that a true and accurate copy of ordinance/resolution 05-2021 has been posted in conformance with the Charter of the City of North College Hill.


Mary Deuel
Clerk of Council

North College Hill is an equal opportunity employer

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Cincinnati, OH 45231
(513) 521-7413
www.northcollegehill.org**

4-19-2021 remind
Communications



Ohio Ethics Commission Filing Reminder

2020 Financial Disclosure Statement to be Filed in 2021

Dear County Official,

You are receiving this letter because you are currently serving or have served at some point in 2020 or 2021 in a county elected office. Ohio law **requires** that all individuals serving for any amount of time in **2020** or **2021** in such positions file a calendar year 2020 financial disclosure statement.

The filing deadline is MONDAY, MAY 17, 2021, unless you are filing for any of the following reasons:

If you were appointed to an unexpired term in 2021, you are required to file a 2020 financial disclosure statement within **fifteen** days of being sworn in.

If you will be a candidate in 2021 for the same office or any other elected office which would require you to file a calendar year 2020 financial disclosure statement **and** are certified to a ballot prior to May 17, 2021, you are required to file 30 days (20 days for write-in candidates) before the first primary, special, or general election when your name will appear on a ballot. If you are not certified to a ballot prior to May 17, 2021 you must file by May 17, 2021.

CANDIDATE FILING DEADLINES:

ELECTION	ELECTION DATE	CANDIDATE FILING DEADLINE	WRITE-IN CANDIDATE FILING DEADLINE
Primary	Tuesday, May 4, 2021	Monday, April 5, 2021	Wednesday, April 14, 2021
General	Tuesday, November 2, 2021	Monday, October 4, 2021	Wednesday, October 13, 2021
Special		30 days before election	20 days before election

HOW TO FILE OR OBTAIN A STATEMENT TO COMPLETE:

You may file electronically at <http://disclosure.ethics.ohio.gov>. Alternatively, blank calendar year 2020 financial disclosure statements are available for download on the Commission's website at <http://ethics.ohio.gov>.

If you have any questions regarding financial disclosure, please feel free to contact me at (614) 721-8670.

Regards,

Jen Boger
Financial Disclosure Coordinator