

TIPP CITY WORK SESSION

TIPP CITY, MIAMI COUNTY, OHIO

October 5, 2015

Work Session

The work session began at 6:30 pm. The following Council members were present: President Joe Gibson, Mayor Pat Hale, Katie Berbach, Dee Gillis, John Kessler, Mike McDermott and Matt Owen. Also attending was City Manager Tim Eggleston, Law Director David Caldwell, Finance Director John Green, Director of Municipal Services and Engineering John Donnelly, Police Sergeant Chris Graham and Clerk of Council Janice Bates. Reporters Nancy Bowman and Cecilia Fox were also in attendance.

Also in attendance were: William Roberts and Phyllis Hale.

DP&L Tree Grant Opportunity

City Manager Eggleston informed Council that he had received information from Ms. Phyllis Hale regarding DP&L's environmental grant to Tree City USA Communities. As part of DP&L's commitment to protect the environment, DP&L is offering the opportunity for communities in their service territory to enrich their cities or parks with an Environmental Grant as part of their *Right Tree, Right Place* program. Two grants will be awarded and will have a maximum value of \$50,000.

Mayor Hale stated he didn't believe Tipp City would be eligible "Since we aren't DP&L electric customers but to apply for the grant to see". Ms. Gillis stated she believed this should be something the Township apply for. Ms. Hale stated DP&L conducted the tree trimmings along Hyatt Street and should be held accountable for the trees that are now dying. Mr. Eggleston informed Council staff will submit an application.

Ohio House Bill 5

Mr. Green informed Council, with the new state tax code, Tipp City will need to change our tax code prior to January 1, 2016. Mr. Green added with this new state code, Tipp City will lose home rule in regards to our local tax code. Adding, Tipp City will lose the ability to collect income taxes if we do not adopt the new state tax code. Mr. Green informed Council after the adoption of the new code, the City will have two income tax codes. The current code (39.50) will be everything prior to January 1, 2016. And the new code (39.60) will be everything after January 1, 2016.

Mr. Green added there is one draft ordinance among several municipalities so the language is consistent. The program will roll-out with the first phase being 50% beginning in 2018; 2017 tax year and full implementation will be in 2022. Mr. Green informed Council at this point, estimates are \$200,000 loss for Tipp City. In order to make up this loss, ½ will come from the general fund and the other half from the capital improvement fund. President Gibson inquired if these figures were anticipated and factored into the CIP. Mr. Green replied yes. Mr. McDermott inquired who determines net operating loss. Mr. Green stated the state makes this determination, and it is based on losses versus gains. President Gibson inquired if a portion needs to come from the CIP because of the local income taxes collected. Mr. Green replied that was also correct. President Gibson inquired if there were pending litigation for violation home rule. Mr. Green replied at this time there is not. Adding one City would need to sue the state first. President Gibson stated he is surprised no other municipality has sued since this violates home rule. Mr. Kessler

wanted to verify the amount of potential losses as \$200,000. Mr. Green stated it is at least \$200,000, if not more. Mr. McDermott stated this would be a huge loss for the City.

Mr. Green continued by informing Council the definition of an "occasional entrant" has also been changed. This had been uniform at 12 days since 2000 (HB477); however with House Bill 5 the occasional entrant has been increase to 20 days before taxes are due. It provides for the tax due where an employee spends the "preponderance" of the day. Mr. Green informed Council the income loss to the City is difficult to quantify due to the nature of work performed by occasional entrants, but believed to be a minor loss.

Mr. Green reviewed other effects of HB5 with Council. Taxable gains and losses will not be mandated from a business's physically separate locations may be netted against each other to produce lower taxable income. This prohibits the business losses from being offset against their wage or W-2 income. This may be a positive change for Tipp City. Currently Tipp City is one of few municipalities in the State which permit business losses to be offset against W-2 income. Other effects include the small business provision. This allows a business with less than \$500,000 in gross receipts does not have to withhold taxes for communities other than its principal place of business. Currently, Tipp City uses \$5 de minimus level for taxes due and refunds. With HB5, taxes due will not be collected if it is less than \$10 and refunds will not be required unless the refund is greater than \$10. Mr. Green continued another effect to Tipp city would be changes to estimated taxes. Communities will be require estimated taxes unless the annual tax obligation is greater than \$200. Currently this amount is \$100.

Mr. Green added another effect that will need to be considered is the appointment of the Board of Tax Appeals members. Currently, Council appoints three members for a one year term. As it currently stands, this board has limited powers and is based on the decision of the Tax Administrator. Under HB5, 2 members will be appointed by Council. These appointments cannot be an employee of the City for at least the 5 previous years, not an elected official and not a contractor of the City. The City Manager will appoint 1 member. This individual may be a City employee but not the Finance Director or Tax Administrator or other employee involved in local tax department. Also, the terms will be 2 year terms, and the appointed individuals can serve unlimited terms.

Assessments must be served by personal notice or mailed by certified mail. Mr. Green added there are questions as to what constitutes as an "assessment". Does this include math corrections on a return which increases the balance due? Due to this provision, an increase in postage costs has been added to the budget for certified mail expenses.

Mr. Green informed Council the next step is to present the Municipal Income Tax Code to Council in mid-October. It will be on the November 2nd agenda for the first reading. The second reading and adoption will be November 16th. This schedule allows for the 30-day referendum period prior to January 1, 2016. Mr. Green added failure to adopt the State's changes required by HB5 may prevent the City from collecting the municipal income tax.

President Gibson led the discussion regarding Council Rules. The attached PowerPoint was reviewed with Council. President Gibson listed the need for the update. 1). The last revision was in 2002, with the previous modifications being in 1993 and ~~2007~~ 1977. 2). This is necessary to comply with changes in Ohio Law and the City's Charter. 3). It is also necessary to comply with the City's Charter in other areas that have not been changed since 2002. 4). The modification will allow for clarification and streamline the process. 5). To provide guidance to future Council Members.

President Gibson stated as he and Law Director Caldwell were reviewing the existing document, they reviewed all rules of Council as published in the new Council Member orientation binder and what is included on the City's website. They also referred to the 1993 and 2002 ordinances as well as *Robert's Rules of Order*. Additionally a comparison was made to other municipalities' rules for comparison. President Gibson reviewed some highlights of proposed changes. First, a delineation (and elaboration) of what Council action requires in an Ordinance versus a Resolution versus a Motion with specifics provided. The draft also sets a specific process for Ordinances regarding 1st and 2nd readings and Public Hearings. The draft also streamlines the process for Boards and Commissions appointments. It also clarifies as to the order of selection of Mayor and Council President at the first organizational meeting of the year following an election. President Gibson stated these updates should result in a better, cleaner, easier-to-understand set of Council Rules that future members can use for maximum efficiency in effectuating policy. President Gibson continued some issues remain. Currently, *Citizen Comments Not on the Agenda* are at the end of the meeting. In the past there have been proposals to move this item earlier in the meeting. Another consideration would be to also limit the time each citizen is permitted to speak. President Gibson stated the rule changes may result in the need to modify the agenda, both in format and process, but appear to be minor.

President Gibson stated another area for question is who will read the legislation into the record at the meeting. Previously, the Council President read the title of the Ordinance, the Council Clerk read the summary and then the City Manager read his detailed version. This was changed to remove the Clerk of Council summary since it was so closely related to both the title of the ordinance and the City Manager's comments. Council input on this item is necessary for Council Clerk and President to proceed.

President Gibson asked all members of Council to review the proposals and to think about questions, comments, and concerns. President Gibson added this is important for a second Study Session for either the second meeting in October or the first meeting in November. President Gibson added he hoped to incorporate the new rules beginning in January when the new Council is seated. President Gibson stated the 1st reading would be at the November 2nd meeting, and the Public Hearing/ adoption of the ordinance would be at the November 16th meeting. The ordinance would take effect after 30 days, December 16th. Mr. Kessler inquired if the proposed changes would be for the Charter as well. President Gibson stated no, the changes to the rules are being made to match the charter. Ms. Gillis inquired if the terms of Mayor and Council President need to be in the rules since they are already listed in the Charter. President Gibson stated that is a good question and can be discussed further at the follow-up meeting on October 19th.

Adjournment

Meeting adjourned at 7:35 pm.

Joseph Gibson, President of Council

Attest: _____
Janice Bates, Clerk of Council

TIPP CITY COUNCIL MEETING

TIPP CITY, MIAMI COUNTY, OHIO

October 5, 2015

Council Meeting

The following Council Members answered roll call. President Joe Gibson, Mayor Pat Hale, Katie Berbach, Dee Gillis, John Kessler, Mike McDermott and Matt Owen.

City Staff in attendance include: City Manager Tim Eggleston, Law Director David Caldwell, Finance Director John Green, Director of Municipal Services & Engineering John Donnelly, Police Sergeant Chris Graham, Fire Chief Steve Kessler and Clerk of Council Janice Bates.

Guests signing the register include: Phyllis Hale, Thomas Chaney, Andrew Thornbury, Patrick Arblaster, Carrie Arblaster, Will Roberts, Brian Butcher and Tom Merritt. Reporters Nancy Bowman and Cecilia Fox were also in attendance.

Invocation and Pledge of Allegiance

Pastor Jeff Seekins from Community Bible Church gave the Prayer for Guidance. President Gibson led the Pledge of Allegiance.

Approval of Agenda

Mr. Owen moved to approve the agenda. Mayor Hale seconded. Motion carried.

Minutes

9/21/15 Pre Meeting Work Session

Ms. Berbach moved to approve the minutes of the September 21, 2015 Pre-Meeting Work Session. Ms. Gillis seconded. Mr. Kessler moved to amend the minutes to correct the typos on page 3. Ms. Berbach seconded. President Gibson requested on page 2, Kyle Park Improvements, third line, the word "stated" be added. A vote was taken on amending the minutes. Motion carried. Mr. Owen moved to approve the amended minutes. Mr. Kessler seconded. Motion carried.

9/21/15 Council Meeting

Ms. Berbach moved to approve the minutes of the September 21, 2015 Council Meeting. Ms. Gillis seconded. President Gibson moved to amend the minutes to correct grammatical errors on pages 8 and 10. Mayor Hale seconded. A vote was taken on amending the minutes. Motion carried. Mr. Owen moved to approve the amended minutes. Mr. Kessler seconded. Motion carried.

9/28/15 Capital Improvement Workshop

Ms. Gillis moved to approve the minutes of the September 28, 2015 Capital Improvement Workshop. Ms. Berbach seconded. Motion carried.

Presentations, Proclamations, & Awards

Mayor Hale read a Proclamation for Fire Prevention Week.

Mayor Hale read a Proclamation for Public Power Week.

Ordinances (2nd Reading) Chapter 37

An ordinance amending Chapter 37 of the Codified Ordinances of the City of Tipp City for all City Employees not covered by a Collective Bargaining Agreement.

City Manager Comments: This ordinance changes and brings us into compliance with various laws that we need to update to. It removes language in reference to the Sergeants as they are now represented by the FOP. The

employee benefits will not change. It also revamps those titles and positions adding and deleting employees that are not part of a bargaining unit.

Mr. Kessler introduced the ordinance and moved for its adoption. Motion passed 7-0. Ordinance 40-15 was declared adopted and President Gibson affixed his signature in witness thereto.

2015 Appropriations

An ordinance amending 2015 appropriations, authorizing an advance of funds, and modifying the annual operating budget as a result of this action.

City Manager Comments: This is done sometimes more than once per year. The Finance Director is requesting Council to adjust line items so they are not in a deficit state. We are requesting Council move to adopt the ordinance.

Mr. McDermott introduced the ordinance and moved for its adoption. Motion passed 7-0. Ordinance 41-15 was declared adopted and President Gibson affixed his signature in witness thereto.

Amending Code Section 71.01

An ordinance amending code section 71.01 pertaining to display of motor vehicle license plates or validation stickers and/or registration.

City Manager Comments: This changes the Tipp City Ordinance to comply with State Law that makes the offense a minor misdemeanor as opposed to a 4th degree misdemeanor. Staff is asking this be adopted to be in compliance with State Law.

Mayor Hale introduced the ordinance and moved for its adoption. Motion passed 7-0. Ordinance 42-15 was declared adopted and President Gibson affixed his signature in witness thereto.

Resolutions
ODOT Grant
Application(s)

A resolution authorizing the City Manager to file applications and enter into an agreement(s) with the Ohio Department of Transportation for the purpose of acquiring funds from the Moving Ahead for Progress in the 21st Century Act for the CR25A Widening Project & SR571 StreetScape/Upgrade Project.

City Manager Comments: Remember at our September 21st Study Session, we discussed both of these projects. Council was in agreement to apply for those. They will not take place until 2020/2021; but we do have to get in on the funding cycle. We are recommending this resolution be adopted so we can move forward.

Ms. Gillis sponsored the resolution and moved for its adoption. Mayor Hale seconded. President Gibson wished to clarify the StreetScape Project. President Gibson inquired if this went from the Roller Mill to the end of the City limits. Mr. Eggleston replied the StreetScape is from 1st Street to Canal Park. President Gibson added, "This is just a continuation of what is already going on". Mr. Eggleston stated this will make the connection bike friendly so individuals can ride their bikes into Downtown and hopefully patronize our town. Mr. Owen wished to give "kudos" to the staff and Brad Vath for bringing this potential grant to the table. "I think this is a great opportunity for us to finish off that edge of town. I know it is not as quickly as we would want, but

we have to go after the money when we have an opportunity to get it". Resolution 45-15 was declared adopted and President Gibson affixed his signature in witness thereto.

**Ordinances
(1st Reading)**

Chapter 37

An ordinance modifying code section 154.06(A)(4)(t)(iv)(A) regarding roof-mounted solar panels.

City Manager Comments: This will allow the Zoning Code to be amended to require solar panels be installed no more than six inches above the roof surface. Staff is asking this be adopted by Council. We do have a resident who has already installed some solar panels, so this will help.

Mayor Hale introduced the ordinance.

Motions

There were none.

Miscellaneous

There were none.

**Citizen Comments on
Items not on the
Agenda**

Phyllis Hale of 665 N. Hyatt Street approached the podium. Ms. Hale encouraged staff to apply for the DP&L grant for trees to be planted in the community.

**Councilmember
Comments**

Ms. Gillis reminded everyone early voting starts tomorrow. "We have a lot of candidates, who are sitting in the audience and a lot of issues on the ballot". Ms. Gillis encouraged everyone to get out and vote.

Mr. Owen reminded everyone HarvesFest is coming up. He encouraged everyone to check out the FaceBook page and the website for details. It is a free event. Mr. Owen reminded everyone these proceedings will be recorded and released later, and reminded everyone Beggar's Night is coming up. "I know a lot of people come in from out of town as well because sometimes our Beggar's Night does not match up with other towns, so we have a lot of children coming to Tipp City". Make sure we are watching for them.

Ms. Berbach informed everyone this Wednesday Kyle Park will be closed to everyone except the Cross County team. There is also a soccer tournament this weekend, October 10th and 11th. There will be about 1,200 people coming in. There will be a lot of kids, cars and people from out-of-town in for this event. Ms. Berbach informed everyone she had the privilege to attend an event this past weekend called *Ignite the Fight*. Pink Ribbon Girls is a charitable organization that feeds women with breast cancer, and they just added assisting women with any reproductive cancer. They provide meals, help with house cleaning services, and take you to chemotherapy. The support system they have is really important as well. They are great people and the majority of them that are on the board have either been affected by cancer themselves or had a loved one that was affected by cancer. "I myself had my step-mother pass away from breast cancer 4 years ago". *Ignite the Fight* this weekend, was an opportunity for us to get together for cancer survivors and those who are currently fighting. It was Pink Ribbon Girls way to say thank you to us and a way for them to raise more money. "I was in awe, it was an incredible event. We raised \$129,000 in 15 minutes. The Pink Ribbon Girls home base is here in Tipp City and there are hundreds of volunteers that are from Tipp City that participate that give to this organization. It is incredible

what this community does for that organization. I really wanted to give a big shout out, not just to the organization itself, they were able to provide 50,000 meals this year so far. That is a lot of mouths to feed, but what's worse it that's a lot of people who is suffering from cancer". Ms. Berbach also thanked the Police Department for chipping in their own money to have one of the cruisers striped in pink for October, Breast Cancer Awareness Month.

Mr. Kessler had nothing additional.

Mr. McDermott had nothing additional.

Mayor Hale informed everyone he had the opportunity to attend the Fall OMEA Conference last week in Columbus. Mayor Hale shared what he learned regarding 111D – The Clean Air Act. While there, he had the opportunity to listen to the Ohio EPA Director, Chris Butler and environmental attorney Roger Martello. "Basically 111D is intended to be used by the EPA as a way to shut down existing coal plants. The EPA is trying to raise emission performance rates to a level where most states will have a hard time reaching those levels. It will be a long process and the final rules are supposed to be out later this month. As soon as those rules are released, we are anticipating lawsuits by communities who will try to fight this change in the Clean Air Act. Thankfully AMP Communities, like Tipp City are in a better position that a lot of other communities because we have such a wide diversification in the type of power we bring in. It is very beneficial to us that we are part of AMP and another good reason to stay in AMP. It is going to be a very long process. It will be years before the lawsuits are finished and it can be another fifteen or twenty years before the entire 111D is enacted by states and across the nation. We do need to check with the places where we are getting our power and try to find out how those entities are dealing with 111D and how that might affect our potential rates. Please contact your representatives in Congress, the House of Representatives and the Senate and let them know you are completely against this rule as currently written". President Gibson inquired if this was in the "proposal" state. Mayor Hale replied this has been through a number of stages and writes and re-writes, and has been fought against by many communities throughout the United States. The final ruling of the EPA are supposed to be out later this month. President Gibson inquired if this were aimed primarily at reducing coal based energy acquisitions. Mayor Hale replied, "Not so much acquisitions, it is more about shutting down the existing coal plants, the older coal plants".

President Gibson stated "At tonight's Study Session the Law Director and I submitted a proposal that would change the rules of Council, Chapter 31 of the Tipp City Ordinances. There is now a firm and final rough draft. Which shows the specific changes in the City Council's Rules, the rules by which they operate. Some are subtle and are designed to comply with changes in State Law or even the Charter. Others are more substantive and are designed to streamline the process and make things easier for citizens and Council alike. The proposed ordinance is in what we call "redline copy" or also known as a copy with strikethrough provisions. It allows the reader to actually see the old version of the law and then what the new version looks like side-by-side and what language is being used in things that are deleted have a strikethrough, so you can see what we are getting rid of. If you would like a copy, please see me or a staff member and we will try to get that to you. I believe it is going to

hopefully be online. I know I can email a copy to anybody who asks via email. We've got tons of copies ready for distribution. You will need the color on your computer, and not the black and white copy to see the differences. I am again calling on citizens and interested parties alike to let me or any Council Member know of any changes, or any issues you may have with this portion of the code. It is similar to what we went through a couple of years ago to go with the Land Use Code. It is a lot of work going into this, but this one here, it actually governs how we conduct our meetings. It does have an effect on all us. Both Council and Counsel. Again, the Law Director and I have met and hats off to Mr. Caldwell, our Law Director, who has provided hours of research and discussion and insight into what goes in and what goes out. If you see something on there and you think it's a great idea, if it is a bad idea, let us know that as well. Be in touch and let us know about it. Any input from citizens or Council Members is encouraged of course. It is a unique opportunity to make a difference in your local government and drafting a law, so don't pass up this opportunity if at all possible. Speaking of not passing up an opportunity, I echo Ms. Gillis sentiments that the election time is coming up and you can vote starting tomorrow. It is hard to believe that we are within striking distance of election time. You've got no excuse. I think today was the last day to register, so hopefully everybody is registered and gets out there and vote. If you work on election day, or whatever, you've got no excuse because you can get out there and do the early voting at the County Courthouse whenever they are open. It is really something you can do on a lunch hour or anything else if you can do that. So get on out there and vote. All of our candidates who are here, I am sure, would appreciate that and best of luck to all of them. I am also pleased to congratulate the Mum Festival Committee for another successful Mum Festival last weekend. The weather was iffy at first, but it opened up and it was really nice for the remainder of the time when the festival was actually in full swing. I spoke to a lot of people who came out and enjoyed themselves and I think our City once again shined. I want to thank everyone for their patience for any inconveniences that the traffic for the parade or parking might have caused. Thanks of course, to our Police and first responding team for keeping everybody safe during all of this. And the Fire Department for the waffles of course. It was a great time, so thanks to everybody who made it possible including our citizens and visitors. I am looking forward to next year. And now on to HarvestFest. As Mr. Owen noted, that is set for Saturday, October 17th Downtown, free-of-charge, also a very good time. This years' theme is *Night of the Rockin' Dead*. That's got to be worth it travelling Downtown to see that with the costumes and so forth. There is still time to volunteer or sponsor that event. If nothing else, come join in. It will be down by Harrison's. And finally, to note also, the Tipp City Operating Budget is now out and much like the Capital Improvement Plan, it is available to anyone who wishes to have a copy. We are going to have our budget session on Monday, October 26th. Like the Capital Improvement Plan Workshop, the meeting will begin at 3:00 pm here in Council Chambers. This addresses how your tax dollars are spent even more than the Capital Improvement. Capital Improvement is items, assets, "stuff", police cars and tractors. The Operating Budget is everything else. Salaries, electricity, whatever. It is a long marathon session. So, if you have a question on spending, or anything like that or you want to hear some input, please feel free to come to the meeting. If it is not already online, it would be soon. The Operating Budget from previous years is online right now as is the new stuff, so please feel free to consult the City's website for that. Under Resident Information and or Finances. It's on there.

Finally, please note, on the agenda tonight we will not be adjourning at the end of the proceedings, as it is necessary for us to retire into an Executive Session after a brief comfort break of about ten minutes. On behalf of Council, we do apologize if we are unable to meet with you for any length of time after the meeting, because we do have to go into Executive Session. We will address the formalities of that at the right time. Before turning things over to the Municipal Manager, I want to remind everyone, like Mr. Owen eluded to, that these proceedings have been recorded and will be rebroadcast several times over the next two weeks on the local cable access station. In this area it is Tipp-Monroe Cable Access Commission, or KIT-TV which will air on channel 5 of the Time Warner cable access. You can check your local listings or the City's website for the day and time that this meeting will be published. You can also watch City Council Meetings at any time day or night by logging onto kittv.org. There is a link on the City's website as well. Public meetings of Tipp City Council, Monroe Township Trustees, the Tipp City School Board as well as other local community events are all now available via video streaming feed online at your computer".

**City Manager
Comments**

Mr. Kessler asked to add something. President Gibson gave Mr. Kessler the floor. Mr. Kessler encouraged everyone to be patient while CSX repairs the railroad crossings in town.

Mr. Eggleston stated staff will provide the dates and locations for the railroad crossings repairs on our website. Mr. Donnelly will make sure that happens.

The City has received a letter from ISO stating our protection classification rating is at 04/4Y for 2016. In talking with Chief Kessler, we went up .5 point. Inspectors evaluate the City based on how well the Fire Department, looking at tools, fire apparatus, equipment, hoses to make sure such items are tested to and maintained to a specific standard. The Fire Station location and the fire fighter response to training. They also look at emergency communications and how calls are received and process for an emergency fire calls, water supply and pump facilities to make sure they can maintain the flows during an event. Water flows at hydrants which is the volume that be effected at the point of contact based upon the distance from the source and the size of the water line, hydrant inspection program and representative hydrants based on records of hydrant inspections. I would like to thank the Tipp City Fire Department's Volunteers, Miami County Communications Center, NAWA and Monroe Township Trustees who do contribute to our department and the purchase of apparatuses.

A reminder that Tipp City Area United Way Campaign has started. Give where you live. You can designate your donation to a specific program. It is surprising what \$1 per month can do to help those who live in Tipp City.

Well #4 rehab is out for bid with the bid opening next week.

Adjournment

President Gibson informed everyone Council would not be adjourning at this time, but would be entering Executive Session for the purposes of personnel to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of public employees to include all

seven members of Council, City Manager Eggleston, Law Director Caldwell and Special Counsel Butcher.

Mr. McDermott moved to enter Executive Session after a 5 minute recess. Ms. Berbach seconded. Motion carried.

The regular City Council meeting entered a 5 minute recess at 8:25 pm. Council entered Executive Session at 8:30 pm.

Special Counsel exited Executive Session at 9:07 pm. Council returned from Executive Session at 9:10 pm. Ms. Berbach moved to return from Executive Session. Mayor Hale seconded. Motion carried.

Mr. McDermott moved to adjourn. Mr. Kessler seconded. Motion carried.

Meeting adjourned at 9:11 pm.

Joseph Gibson, President of Council

Attest: _____
Janice Bates, Clerk of Council



