

WHITEHALL COUNCIL COMMITTEES

MINUTES – August 11, 2020

Council President Potter called the August 11, 2020 Council Committees' meeting to order at 6:30 p.m.

The following members of council and the administration were present:

Members of the Administration

Council President Thomas Potter
Mayor Kim Maggard
City Attorney Michael Bivens
Development Director Zach Woodruff
Comm. Affairs Manager Megan Meyer

Council Members

Chris Rodriguez
Wes Kantor
Larry Morrison
Jo Anna Heck
Lori Elmore
Bob Bailey

COMMITTEE OF THE WHOLE

No drafts or pending legislation.

ADMINISTRATION AND FINANCIAL MANAGEMENT

Chairperson Bailey opened at 6:31 p.m. and addressed the legislation in his committee, as follows:

ORDINANCE NO. 060-2020 - DRAFT # 1

AUTHORIZING AND APPROVING A FUND TRANSFER IN THE AMOUNT OF ONE HUNDRED FIFTY THOUSAND AND NO/DOLLARS (\$150,000.00) FROM UNAPPROPRIATED MONIES IN THE GENERAL FUND 101 TO THE STREET MAINTENANCE AND REPAIR FUND 201 AND DECLARING AN EMERGENCY.

Mayor Maggard said every year the City has to move money from the general fund to the street maintenance and repair 201 fund. There is not enough gas tax coming in to pay for that entire department so it is supplemented by the City's general fund. This is the first transfer being done this year to make sure there is enough money in the 201 to pay salaries and do street repairs.

(Admin/Fin. Mgmt. – 1st reading – ADOPT 08/18/2020–Bailey/Rodriguez)

ORDINANCE NO. 061-2020 - DRAFT # 2

APPROVING AND MAKING A SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00) FROM UNAPPROPRIATED MONIES IN THE GENERAL FUND 101 TO THE INCOME TAX REFUNDS EXPENSE ACCOUNT (101.350.57000) AND DECLARING AN EMERGENCY.

Chairperson Bailey said tax refunds to be issued were more than anticipated.

(Admin/Fin. Mgmt. – 2nd reading – ADOPT 09/01/2020–Bailey/Morrison)

ORDINANCE NO. 062-2020 - DRAFT # 3

AUTHORIZING AND APPROVING A SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF ONE HUNDRED FIVE THOUSAND AND NO/DOLLARS (\$105,000.00) FROM UNAPPROPRIATED MONIES IN THE LAW ENFORCEMENT TRUST FUND 241 TO THE K9 LAW ENFORCEMENT TRUST EXPENSE ACCOUNT 241.000.52000 AND DECLARING AN EMERGENCY.

Mayor Maggard said right now in the Law Enforcement Trust Fund, which is completely separate from the general fund, there is over one half million dollars. This is how investigations and different types of equipment the police do not normally need are funded, such as cruisers and k-9's. When the k-p unit was started in 2017 we rigged a car/van but now there is a need for a transportation vehicle for one of the k-9 units. Money is needed for that and for some other training and upkeep for our k-9's.

(Admin/Fin. Mgmt. – 1st reading – ADOPT 08/18/2020–Bailey/Conison)

RESOLUTION NO. 026-2020 - DRAFT # 4

RESOLVING TO APPROVE “THEN AND NOW” CERTIFICATES AND DECLARING AN EMERGENCY.

There was no discussion on Resolution No. 026-2020.

(Admin/Fin. Mgmt. – 1st reading – ADOPT 08/18/2020–Bailey/Heck)

Having no further business, Chairperson Bailey closed at 6:35 p.m.

PUBLIC SAFETY

Chairperson Kantor opened at 6:36 p.m. and said there are no drafts or pending legislation on the agenda.

Chairperson Kantor said he spoke with Chief Crispen about solicitors. He asked for a list of all approved solicitors and ice cream trucks in the City of Whitehall. The only company that is authorized at this time to solicit in the City is Spectrum, which consists of thirteen employees with picture identification lanyards and there are no licensed ice cream trucks at this time. He encourages residents to pick up the phone and call Whitehall Police Department at 614-237-6333. Chief Crispen wanted to tell all of Council thank you for honoring the Whitehall Police Department with a resolution last week. It was a great honor. He also is excited about draft #3 for the k-9-unit funding.

Chairperson Elmore said with regards to solicitors, this is an election year and there are people out canvassing to get out and vote and will be canvassing throughout the election. Those are not considered solicitors. The census takers are not considered solicitors. These fall under the exemption list. She wanted to make this clear since they are in committee. Solicitors are people looking to sell you something.

City Attorney Michael Bivens said it was a pleasure to come before Council this evening. He has had discussions with Councilperson Kantor, the Mayor, with Director Woodruff, with Councilperson Elmore, as well as Chief Crispen as it relates to the public issue that has been presented to members of Council about the kids selling water on Doney Street. From his perspective, he will give them kind of a fifty foot above the ground analysis of how he approaches it as it relates to looking at the City code and looking at whether or not they can enforce any issues as it relates to children. To start off very clearly, Council has the power to regulate this but it falls into the gray area should Council regulate this. He had a discussion with Chief Crispen and with law enforcement with the simple question being, is this a public safety issue? Is it a nuisance? Is it a public nuisance? Is it something that is causing an issue to the citizens and to the safety of the citizens of Whitehall? I have heard from Chief Crispen and the Officers that it is not. It is not a public safety issue or a detriment to the citizens of the City of Whitehall. More or less, it is something that the Police Department looks at as kind of a non-issue. That being said, that does not negate citizen

complaints, citizen calls, things that citizens have observed as it relates to the children, things that have been called in and other issues and other issues that can be enforced as it relates to the actions of the children. As the City Attorney, what he looks at is if Council had the mind to create legislation specific on this issue, there are a number of factors that in his opinion later on down the road, if it were challenged, they could find themselves in a situation where they could have an ordinance on the books that is unconstitutional. To the extent, that back in 1981, this Council and it was not you, this Council repealed issuance of licenses to minors. He has no idea why that was done. He has done all of his research and looked through the Council minutes and Council did not give its mind for why it did so. At some point in the past the City of Whitehall Council decided that issuances of licenses to minors should be repealed and they just took it off the books. Maybe it harkens back to the good old days when it was thought that if kids were out wanting to do lemonade stands and wanting to sell in the streets, it is not a situation where a Mayor, law enforcement or any of them would have wanted to regulate that. He is just making that assumption but it does kind of harken back to the good old days. Those good old days aside, now we fast forward to 2020 where what he heard is that the kids on Doney are doing a type of situation where they have signs that are promulgating black lives matter and they have signs that say defund the police. They are exercising their constitutional rights as it relates to content based speech while also selling water. This Council should have the mind of back in 2015 there is a United Supreme Court case called *Reed vs Town of Gilbert*, which specifically banned any local ordinance from regulating content based speech. Now since 2015 it has been expanded as you know to panhandling and issues as it relates to panhandling and city's all across the United States are repealing their ordinances and the City of Whitehall has joined in on not enforcing panhandling laws. He reminded Council that years ago they had an issue here as it relates to panhandlers. From the gray area, if Council had the mind to regulate this type of action, down the road he can foresee some constitutional issues that can be presented to this Council if whoever will decide to file any thing as it relates to exercising their right to this issue. Why does he think that can happen? There is an organization called Country Time Lemonade that has incidentally created a legal defense fund that when individuals are caught, are fined, are jailed as it related to selling water or lemonade on the street. Country Time Lemonade has stepped up to say that they will provide a legal defense for that. What he has been able to research in the methodology behind what they do is, once they are identified, once they know there is an issue in a particular city, they then jump into action and start contacting their state representatives and senators and they then go into action to regulate and to defend that type of action. This falls into, Council members, you are elected by the citizens of Whitehall. This falls into you not turning a blind eye to the citizens that are giving you complaints but it really falls into the matter of is this the type of regulation that our city should be engaged in. Not that it can't engage in it but should it engage. He will tell them right now that he has received calls from local civil rights organizations as it relates to they have heard about it, it has been on social media, they have seen the social media comments, they heard Council speak about it in these committee meetings as well as in public discourse. They are waiting to see if Whitehall is going to do something that will give them full measure and weight to exercise their rights, in order to combat anything that we would intend on doing if we decided to regulate this type of conduct. Especially in light of the fact we knew or should have known based upon our public safety forces that this is not a public safety issue. That being said, the mind of Council is the mind of Council and he respects whatever Councils mind is as it relates to that. He stands there as the City Attorney to say that if Council decides to go down the path of regulating this conduct specifically, you do it as some peril. He would take any questions Council may have on this matter.

Chairperson Bailey said with this being an issue and being talked about and obviously know about by other entities, his question is, would the City or even Council or each member individually be exposed as far as liability if there is an accident there, somebody is hurt because the two big issues are litter and safety? That is all it has ever been. It has never been his intent to do anything legislatively to deal with this. According to the police, there has been one accident at that intersection where a car was rear ended and he has heard of a couple more where the police were not called for one reason or another. He prays that nothing else happens. Are they exposed legally?

City Attorney Bivens said that was an easy answer. No, this Council is not exposed legally to that type of action as it relates to a knew or should have known of an impending danger as it relates to kids selling water in that area. That should not be a concern of you or any other member of Council as it relates to that. Another issue if Council can recall, we joined in the pledge and in the initiative from Franklin

County as it relates to the Rise Together Blueprint as well as declaring racism as a public health issue as it relates to poverty. With Council also knowing that Whitehall's zip code falls within one of the highest rates of poverty within Franklin county, it is also known through Administration as well as Council that these kids selling water is related to a poverty issue, so to regulate a poverty issue when we have declared that we are joining in the county's Rise Together Blueprint in order to eradicate poverty, that kind of gets us into the right hand and the left hand not really working together.

Chairperson Elmore thanked Mr. Bivens for his research. She knows firsthand in speaking with the children who are selling the water that they are helping their family offset some of the layoff or not working kind of thing. Her question is with regards to his conversations with Chief Crispin and the effect the kids selling water may have on the corner. So, with regards to the amount of calls and them responding to the calls because every call has to be responded to, what effect does that have on us prioritizing the importance of do I go here or do I go there?

City Attorney Bivens said he has no intent on responding administratively. He will refer to the Mayor on that. However, in his conversations it does have an effect on law enforcement as it relates to the service calls from other serious matters.

Chairperson Morrison said with concerns of safety with this being done on corners, is there anything that can be done to restrict them from corners, maybe halfway up the block or something, where people are not stopping in the middle of a turn? He observed one on Yearling Road turning onto Etna in a left hand turn, green light, stop right in the intersection with people right behind them just to purchase a bottle of water. That is a safety issue. Is there anything we can do about that? The conversation keeps going back to lemonade stands in people's front yards. Well, those are in people's front yards and not on the corners. Is there any way to restrict how close to a corner you can do this activity without infringing upon their constitutional rights?

City Attorney Bivens said his understanding from his discussions about the children that they are in front yards. He thinks it is kind of loosely. They don't own the property but they know the person whose property they are in front of. That is his understanding the way it was explained to him and where he has seen them operate. It looks like they are right outside someone's home.

Chairperson Morrison said he agrees with that. They are but they are still right at the corner impeding traffic and things of this nature. Is there any way to restrict them from so many feet from a corner? You can't park in front of a fire hydrant.

City Attorney Bivens said as long as they are in the right of way, he thinks it falls within that gray area. Certainly it can be done but it is a matter of should it be done.

Chairperson Kantor asked if you could go fifty to seventy-five feet from an intersection?

City Attorney Bivens said like he said, Council can regulate it in any way, shape or form that seems fit. It is a matter of should Council do that considering all the things that it could be fraught with.

Chairperson Kantor said he knows that they are there to make money and to help out their families and he has gone on record numerous times and he will say it again, he does not believe it is a race issue. He has witnessed it being a safety issue. They are on private property; they are on City property when they are on the sidewalk, they are across the street on a vacant lot on the corner, they are not in there. You have fine lines on anything that you do. The northwest corner he has been told that the people say yes, ok. He has been told that the people ask them time and time again not to be on their property but he has seen vehicles there and they use the fence for their jackets, coats or whatever they are going to hold up. He doesn't have an answer and he has said this before. He just feels it is a major safety issue with what he has seen.

City Attorney Bivens said he respects that and he will repeat publicly to this body what he has said to him in private and that is certainly the issue can be couched as a public safety issue. The issue can be termed as this is an issue relating to the safety of the children, however; in the headline to the extent that these

children are regulated and policed, tied down or incarcerated for this, the headlines says "City of Whitehall arrests black kids." We don't create the problem, however, this issue has repeated itself throughout the United States. This is not just a Whitehall issue. This is a Franklin County issue. This is an Ohio issue. This is a national issue and to the extent that Whitehall wants to engage or potentially wants to be a part of that discourse, you are at the precipice of that to the extent that you regulate this type of conduct in any way, shape or form at this time. He understands they care about the kids. He cares about the kids. We all on this Council have children and our kids and our City are very important to us. We don't then get to say that our children are important to us but then police them and regulate them in these types of ways to the extent that we couch it with it is a public safety issue when our public safety forces are saying it is not a public safety issue. We cannot have it both ways. That is where we get into our potential liability issues.

Chairperson Elmore will say that she does not believe this is on the side where Whitehall needs to be. She will say that. They have bigger things they need to be focusing on, not that this is menial or small but to the degree where she believes they are shifting their priorities or the police priorities in answering call that can be dealt with. She thinks there is a different way for them to deal with or to work with and to remediate the situation that exists on the corner. She thinks they are working to do that. The other thing is that she has seen, people have sent her and shown her screenshots of some of the wording of the things that have happened that relates to those young kids and in her humble opinion she will disagree with Councilperson Kantor. She has seen some things that will make her beg to differ but she is not going to labor on that. All she knows is as a Council, they are working, she knows she is working with several people to make sure that they can remediate this, that they can get the kids on the right track. There is programming available that yes this is an issue right now but she believes that as they direct it in the proper channels and help the kids as far as the community is concerned. Also, answer the questions, meet the needs of our community while we meet the needs of things that are happening with our children. This is a time period that we have never seen before and we are trail blazing areas we have never trail blazed before so it is not going to be a quick fix but what she does not want to be on the side of the headlines reading negative in regards to Whitehall when all the while we are doing positive things to move Whitehall forward. That is where she is and that is why she has reached out from being Chairperson for Community and Elder Advocacy to work with the kids, to work with safety, to work with everyone involved in order that we might get this on the right track. That is all she will say and she hopes that they get this right.

City Attorney Bivens said he thinks they will and to your point Chairperson Morrison and Chairperson Kantor as well as other members of Council, we have another issue as it relates to children that is on the horizon sometime at the end of this month with respect to school and truancy issues. We have obviously ordinances on the books as it relates to truancy and certainly there have been discussions with law enforcement because if these are school aged children that should be in school during proper school hours, we certainly should not expect to see them out selling water when they should be pursuing their education and there are already laws on the books as it relates to that. That is his view from where he sits and certainly he will answer any other questions they may have.

Chairperson Morrison said that is a very valid point and it may take care of itself here within the next few weeks.

Chairperson Kantor said he thinks they should do everything they can to be proactive to help these kids because Mr. Bivens used the word help and he will use that and to help them stay safe is the most important thing. Black, white, green or purple, he doesn't care as long as the kids are safe. That's the most important thing.

City Attorney Bivens told Chairperson Kantor that he appreciates that. That is a good segway into Megan, who he will introduce and have her come up because he believes that she has been effective at being able to introduce something to this Council and to this City of Whitehall as it relates to this issue. He thanked everyone for having him this evening.

Megan Myer thanked Mr. Bivens. She addressed Council by saying as they dove into this topic further and to Mr. Kantor's point about the children's safety and to Ms. Elmore's point about making sure that the kids are being connected with the appropriate programming, as they dove into this topic further they found out about instances of kids selling water on sidewalks is not confined to Whitehall by any means. It is actually pretty predominant throughout central Ohio. Columbus is a pretty good hot spot for it. Some other agencies have noticed through their connections with Franklin County Jobs and Family Services, they recently became aware of an opportunity being provided by the Columbus Urban League. It is called a Safe Saturday Event. It is actually specifically targeted to youth selling water or Gatorade at corners. They are being invited with flyers that they are handed while doing these activities. The concept is to invite these children and their parents, if they are able, to an event where they will explain safety regulations and tools, where we give them PPE's, not just where it relates to Covid, so hand sanitizers and masks but also as it relates to visibilities, visors, jackets and vests, things of that nature, as well as a book bag to identify them as a member of this program. To make sure the kids have a little bit of skin in the game, afterwards they are going to be asked to sign a pledge and that pledge then commits them to various safety initiatives like being mindful of crosswalks and not going into traffic and other things like trying to be home at a reasonable time and things along that nature. Of course we all know that one of the main points here is to make sure they are getting to see these kids and their families and to have conversations, meaningful conversations with the Columbus Urban League who hosts a couple of different programs for youth but specifically this one where they are targeting a program called Ready to Earn and some other summer youth programs. This does not have to be a onetime thing but it is the first event of its kind. They have actually convinced the Columbus Urban League to host it here in Whitehall so that event will be at noon on Saturday, August 29, 2020 at the loading bay dock area of the Target store just to make sure that anyone engaging in this activity will be able to get there. That is how they are looking at it from this perspective and they are really grateful to their connections with Jobs and family Services as well as the Columbus Urban League. Any questions on that program?

Chairperson Kantor thinks that is a great idea because they are addressing safety. Every step that they can take to keep the kids safe and he knows that 43213 is a strapped area and with 2020 we are all in right now it is really a tough period. He thanked them for doing this and hopes they have a good turnout. That is a good first step. He believes this came out of a meeting that happened Friday and it is a good step. Thank you very much.

President Potter said as he understands it is different groups of youths that come at different points in the day so the goal would be to get the flyers to the different groups.

Megan Myer said in her conversations with the Urban League the youth at that corner have already been contacted but they said they would go back out again with sometimes the groups change out. They will be monitoring this and letting the Urban League know so they can reach out to them

Having nothing further, Chairperson Kantor closed at 7:06 p.m.

COMMUNITY STANDARDS AND ENFORCEMENT

Chairperson Rodriguez opened at 7:07 p.m. and said there are no drafts or pending legislation on the agenda.

Chairperson Kantor said to Director Woodruff that there were steps taken a few months ago to send letters to all area businesses as a friendly reminder in regards to trash dumpster enclosures. He asked if Director Woodruff thought they could take those same steps in regards to signage for carts?

Director Woodruff replied yes.

Chairperson Kantor thanked Director Woodruff.

Having nothing further, Chairperson Rodriguez closed at 7:07 p.m.

COMMUNITY AND ELDER ADVOCACY

Chairperson Elmore opened at 7:07 p.m. and said there are no drafts or pending legislation on the agenda.

Chairperson Elmore said she sits on the board of Whitehall Bexley Rotary and they have just approved a grant for the YMCA in the amount of ten thousand dollars. The grant is earmarked to help offset the cost of memberships and for social programs. Also, there is another program that will be forthcoming to help assist the youth who may end up in a little bit of a bind. She will have more to report hopefully within two weeks or so.

Chairperson Heck asked City Attorney Bivens if they could start getting the stat updates for Mayors Court that he used to give before Covid-19 stopped the open meetings? She said those could be emailed to Ms. Ogg.

City Attorney Bivens replied yes.

Having no further business, Chairperson Elmore closed at 7:10 p.m.

ECONOMIC DEVELOPMENT

Chairperson Morrison opened at 7:10 p.m. and said there are no drafts or pending legislation on the agenda.

Chairperson Kantor asked Director Woodruff if he knew when Old Bag of Nails would be having their grand opening?

Director Woodruff replied soon. He does not have a date but certainly Covid-19 has wreaked havoc on the date of their grand opening.

Having nothing further, Chairperson Morrison closed at 7:11 p.m.

INFRASTRUCTURE, MAINTENANCE AND SERVICE

Chairperson Heck opened at 7:11 p.m. and addressed the legislation in her committee, as follows:

RESOLUTION NO. 027-2020 - DRAFT # 5

DESIGNATING A PORTION OF PARCEL 090-000227, AS SHOWN AND DESCRIBED IN EXHIBIT A LABELED 3-WD AND 3-T AS CITY OF WHITEHALL PERMANENT AND TEMPORARY RIGHT-OF-WAY AND DECLARING AN EMERGENCY.

Director Woodruff said this is related to the Elbern bridge replacement. ODOT requires that Robinwood Park, even though it is City owned property, that this portion be designated as a right of way. This is taking a very small portion of the park and turning it into both permanent and temporary right of way that will be needed so the work can be performed. It will not change the use of the park or negatively impact any of their operations once the bridge replacement is completed. He asked that it go on first reading so that it can be executed, filed and recorded so it can then be handed over to ODOT.

(Inf, Maint. & Serv – 1st reading – ADOPT 08/18/2020–Heck/Kantor)

THIRD READING:

ORDINANCE NO. 057-2020

AUTHORIZING THE MAYOR TO EXECUTE THE *AGREEMENT FOR THE COLLECTION, TRANSPORTATION AND DELIVERY FOR DISPOSAL OR PROCESSING OF RESIDENTIAL SOLID WASTE, RECYCLABLE MATERIALS AND YARD WASTE GENERATED WITHIN THE CITY OF WHITEHALL, FRANKLIN COUNTY, OHIO* BETWEEN THE CITY OF WHITEHALL AND LOCAL WASTE SERVICES, LTD. AND AMENDING THE CODIFIED ORDINANCES OF THE CITY OF WHITEHALL, OHIO TO ENACT SECTION 933.15 SOLID WASTE AND RECYCLING COLLECTION SYSTEM ADMINISTRATIVE AND OPERATIONAL FEE FIXED RATE.

(Inf., Maint. & Serv. – 3rd reading – ADOPT 08/18/2020–Heck/Elmore)

Having nothing further, Chairperson Heck closed at 7:13 p.m.

PARKS AND RECREATION

Chairperson Kantor opened at 7:13 p.m. and said there are no drafts or pending legislation on the agenda.

Chairperson Kantor said that football has started. Baseball will continue through the 27th which is about a month longer than normal. They have had really good success. Slash pad is open Thursday through Sunday. They have had a really good turnout. Someone attempted to get into the splash pad and he was apprehended.

Having nothing further, Chairperson Kantor closed at 7:14 p.m.

Respectfully submitted,

Julie A. Ogg, Clerk of Council