

October 11, 2011

COUNCIL MEETING

New Richmond Village Council met in Council Chambers in regular session on Tuesday, October 11, 2011 at 7pm. Present: Richard Hilt, Gary Skeene, Richard Mathews, Nicholas Wolf, Jack Connors and Vinnie Cochran - members; Ramona Carr, Mayor; Donna Hammons, Clerk; Randy Harvey, Police Chief and David Kennedy, Administrator.

Also attending:

Bob Beiser – 2740 St. Rt. 132

Judy Bandy – 208 Front Street

Paul Vonderbosch – 208 River Valley Boulevard

Bill Marsh – 2423 Country Place

Noel Thacker – 302 Mill Street

Richard Feldkamp – 728 Washington Street

Frank Renn – 2928 Mt. Pisgah Road

Mike Wiley – 107 Regatta Drive

Ernie Smith – 2378 St. Rt. 132

Hillary David Brock – 121 Dickerson Street

Amber Strunks – 2378 St. Rt. 132

Kristin Bednarski – Clermont Sun

Mayor Carr opened the meeting with the Pledge of Allegiance.

John Korfhagen, Village Solicitor:

He has received a package of information from Mayor Carr, which is a review of proposed Ordinance 2011-13 Amending the Personnel Policy – Outside Employment or Self-Employment, along with material provided to Council from Chief Harvey pertaining to the outside employment/self-employment of Village police officers.

QUESTION 1: Does Village Council have the authority to regulate outside employment of Village employees?

At the present time the village has no policy that addresses whether an employee may hold a job in addition to the job the employee has with the village.

The Ohio Revised Code, Section 102.03 limits the type of work that Village Employees may engage in. The Attorney General states that public employees may have private jobs or engage in private business activities provided the employee does not misuse his public employment, including but not limited to the use of information obtained by the employee in the course of the employee's public duties which is confidential by operation of law or so designated as confidential by the Village and there is no other conflict of interest. The AG further states that a public employee is prohibited from having a private business relationship with an individual company that is interested in matters before the Village, regulated by the Village or seeking to do business with the Village unless the Village determines it is possible for the employee to withdraw from all matters affecting the individual or business seeking to do business with the village.

The Ohio Attorney General's Opinion is that villages do have the authority to regulate outside employment of their employees. There are seven criteria that the AG states are not permitted:

1. Using public resources in his private business; or
2. Using relationships with other public employees to benefit his business interest;
or
3. Using his title or uniform while conducting private business; or
4. Using the authority or influence of his office or employment to benefit his private business; or
5. Receive payment for services on projects he recommends in his public capacity;
or
6. Using his official authority in matters affecting his competitors; or
7. Otherwise using his public position to benefit his private business interests

It is incumbent on the employee to prove these seven items will not be involved.

Any ordinance amending the Personnel Policy should include reference to these seven criteria.

QUESTION 2: In a Village, does Council or the Mayor have the authority to regulate the conduct of Village employees?

The answer to this question is a little more difficult. The Mayor has the duty to supervise the conduct of all department heads. Beyond that it becomes a bit nebulous as to whether it is responsibility of the department head or the Mayor to supervise the conduct of employees. This is a very difficult question to answer. Council has the authority to clear up this issue. According to ORC the Mayor shall see that all ordinances, bylaws, and resolutions of the legislative authority are faithfully obeyed and enforced. In my opinion if you adopt an ordinance which says this is how we are going to regulate employee outside employment/self-employment then it would be the duty of the Mayor to see that this was enforced provided it complies with state and federal law. Currently, there are no provisions on outside in your personnel policy dealing with outside employment so it is the responsibility of the mayor to regulate this outside employment issue.

QUESTION 3: Are there federal laws which limit what council may do?

For the most part the adoption of a personnel policy is not going to be impacted by federal laws. In general, federal laws are concerned with whether the policy is neutral (race, sex, handicap, national origin, religion, etc.) And also providing due process to the employee. The biggest concern he has is whether the policy would implicate the Fair Labor Standards Act with regard to hours of employment.

An employee who is required to remain on call on the employer's premises or so close thereto that he cannot use the time effectively for his own purposes is working while "on call". An employee who is not required to remain on the employer's premises but is merely required to leave word at his home or with company officials where he may be reached is not working while on call.

Mathews asked what if being on call was in the job description. Korfhagen answered this could be a problem.

QUESTION 4: What other questions should council be considering with regard to this policy?

1. He agrees with exempting part-time, auxiliary and volunteer personnel from the policy provided it is clear that the other work they perform is in compliance with the restrictions set forth in response to Question 1.
2. That Council consider requiring the department head or administrator to review the 'Outside Employment Request' and either approve or disapprove of the requests based on standards adopted by Council with the employee being given the right to appeal a denial of a request to Council. Under this method an employee would have a right to appeal to Council and then possibly a second appeal to Common Pleas Court.
3. He understands one of Council's concerns is that Council want to be made aware of all employees working outside employment. Council can address this concern by requiring that the Administrator inform Council of all employees working outside jobs on whatever intervals Council deems appropriate.

Wolf said this all came about because an employee was working another job and no one knew anything about it. Council members heard about it on the street. Council or at least the Safety Committee should be made aware of outside employment before the other job is started.

Carr said she and the employee followed the personnel policy. Asked if Korfhagen is saying the Administrator would sign off? Korfhagen said that he would write the ordinance however council wants him to go. He suggests everyone take the time to read everything and to give him any opinions or questions.

Cochran asked if Council was taken out of the approval process could it be left up to the department head to approve? Korfhagen advised that federal court likes to see an appellant process.

Wolf said that he wants to see it in the policy that Council is made aware of the situation before the other job is started.

QUESTION 5: Should the Village adopt a policy regulating outside employment for Police Officers?

He has researched this issue and has provided Council with a printout outlining 38 questions which Council should consider in determining whether to adopt a policy and if so what type of policy to adopt.

He recognizes that it is common in the greater Cincinnati area for police officers to work outside employment and that other jurisdictions have adopted policies addressing this issue. But Council needs to determine whether this is in New Richmond's best interest and Council should not adopt a policy simply because other jurisdictions allow this.

At a minimum, he suggests that Council ask the Village's insurance carrier whether the carrier has any concerns about the adoption of this policy and/or any guidelines that the insurance company wants to see followed.

Korfhagen to draft a revision of Ordinance 2011-13.

Minutes of September 27th were presented for approval. Cochran motioned to approve. Seconded by Wolf.

Mr. Hilt: yes

Mr. Wolf: yes

Mr. Skeene: yes

Mr. Conners: yes

Mr. Mathews: yes

Mr. Cochran: yes

Hillary David Brock - resident, 121 Dickerson Street:

The other day he noticed a school bus backing out onto Rt. 132. This is very dangerous. Mayor Carr said this is a school issue and suggested he contact them about this issue.

He asked who owns the Quarry Street boat ramp. Answered this is village property. Brock said this property needs to be maintained along with the properties on either side of the ramp.

He said the area around Skipper's Marina is surrounded by trash and debris and really needs maintained. The hand railings on the harbor seem dangerous. The whole place looks really rough.

He thinks there should be more designated crosswalks in the village.

Carr thanked him for expressing his opinions. She said the Safety/Laws/Rules Committee is present and he is welcome to attend their next meeting on November 7th at 2pm. She will be happy to meet with him and discuss his concerns and refer him to the proper committees.

David Kennedy, Village Administrator:

The Fire Department is requesting a street closing on October 29th for the fire training of the village owned structure at 220 Columbia Street. Cochran motioned to approve the closing of the 200 blocks of Columbia Street and High Street on October 29th. Seconded by Skeene.

Mr. Hilt: yes	Mr. Wolf: yes
Mr. Skeene: yes	Mr. Conners: yes
Mr. Mathews: yes	Mr. Cochran: yes

The Planning Commission has submitted zoning text amendment cases 2011-3, 2011-4 & 2011-5. Hilt motioned to accept the recommendations from the Planning Commission and set a public hearing for November 22nd. Seconded by Cochran.

Mr. Hilt: yes	Mr. Wolf: yes
Mr. Skeene: yes	Mr. Conners: yes
Mr. Mathews: yes	Mr. Cochran: yes

Kennedy is requesting permission to submit a computer technology upgrade Justice Assistance Grant (JAG) from the Ohio Office of Criminal Justice Services (OCJS) for the Police Department. Total project cost - \$18,689.17 with a village share of \$1,868.92. Mathews motioned to approve. Seconded by Conners.

Mr. Hilt: yes	Mr. Wolf: yes
Mr. Skeene: yes	Mr. Conners: yes
Mr. Mathews: yes	Mr. Cochran: yes

Cincinnati Bell is beginning the process of entering into the home video service market. The village is required by law to determine our video service provider fee. Hilt motioned to suspend the three reading rule. Seconded by Wolf.

Mr. Hilt: yes	Mr. Wolf: yes
Mr. Skeene: yes	Mr. Conners: yes
Mr. Mathews: yes	Mr. Cochran: yes

Hilt motioned to adopt **ORDINANCE 2011-21 DETERMINING THE VIDEO SERVICE PROVIDER FEE TO BE PAID BY A VIDEO SERVICE PROVIDER OFFERING VIDEO SERVICE IN THE VILLAGE PURSUANT TO A VIDEO SERVICE AUTHORIZATION; AND AUTHORIZING THE ADMINISTRATOR TO GIVE NOTICE TO THE VIDEO SERVICE**

PROVIDER OF THE VIDEO SERVICE PROVIDER FEE AND DECLARING AN EMERGENCY. Seconded by Wolf.

Mr. Hilt: yes
Mr. Skeene: yes
Mr. Mathews: yes

Mr. Wolf: yes
Mr. Conners: yes
Mr. Cochran: yes

Request permission to destroy inoperative HP fax/printer/scanner that no longer works. Skeene motioned to approve. Seconded by Mathews.

Mr. Hilt: yes
Mr. Skeene: yes
Mr. Mathews: yes

Mr. Wolf: yes
Mr. Conners: yes
Mr. Cochran: yes

Randy Harvey, Police Chief:

Saturday, October 29th the department is planning to cooperate with other departments in the county along with the Sheriff's Office in hosting "Prescription Drug Take Back Day". This will take place from 10am to 2pm at the Hamilton Street Fire/EMS Station. This gives everyone the opportunity to dispose of expired and/or no longer used prescription medications. The department will collect these meds in a controlled setting and then they will be transported to the Sheriff's office for final approved disposal. Cochran motioned to approve. Seconded by Wolf.

Mr. Hilt: yes
Mr. Skeene: yes
Mr. Mathews: yes

Mr. Wolf: yes
Mr. Conners: yes
Mr. Cochran: yes

Richard Hilt, Finance/Personnel Committee:

Department heads have said employee evaluations have been going on and should be completed by November.

The committee will review job classifications and salaries in January when figures for carryover and revenue estimates are clearer.

Hilt motioned to approve payment of the bills #33699 to #33791 and electronic payments #277 to #320. Seconded by Skeene.

Mr. Hilt: yes
Mr. Skeene: yes
Mr. Mathews: yes

Mr. Wolf: yes
Mr. Conners: yes
Mr. Cochran: yes

Richard Mathews, Safety/Laws/Rules Committee:

Chief Harvey reported our towing contract needs renewed. The Prosecutor's Office is updating the contract for the Sheriff's Department and he will use that as a guideline for ours. He will present this when he gets all the information.

Vinnie Cochran, Public Works/Parks/Recreation Committee:

The old water plant building is in very bad shape, becoming a major liability and needs to be removed. Suggests we try to sell the building only on our online auction site. If that doesn't work then we need to just go ahead and have it taken down. Cochran motioned that the historical plaque be removed, that we advertise online for the building only with caveat the building be removed within 30 days of awarding the bid. Seconded by Wolf.

Mr. Hilt: yes	Mr. Wolf: yes
Mr. Skeene: yes	Mr. Conners: yes
Mr. Mathews: yes	Mr. Cochran: yes

We will discuss the results at the next meeting.

Cochran also mentioned that a large environmentalist, naturalist group that is interested in making the Quarry Street boat ramp a permanent launch site for non-motorized boats, approached him a few weeks ago. Cochran said there is interest in this ramp and expects good things coming from this interest.

Fiscal Officer, Lynn Baird, has presented council with financial reports for the month of September.

SECOND READING OF ORDINANCE 2011-20 AMENDING THE NEW RICHMOND SEWER ORDINANCE

THIRD READING OF ORDINANCE 2011-17 AMENDING THE ZONING ORDINANCE – SECTIONS 1, 3 & 4. Hilt motioned to adopt. Seconded by Mathews.

Mr. Hilt: yes	Mr. Wolf: yes
Mr. Skeene: yes	Mr. Conners: yes
Mr. Mathews: yes	Mr. Cochran: yes

THIRD READING OF ORDINANCE 2011-18 AMENDING THE ZONING ORDINANCE – SECTIONS 5, 6 & 7. Hilt motioned to adopt. Seconded by Cochran.

Mr. Hilt: yes	Mr. Wolf: yes
Mr. Skeene: yes	Mr. Conners: yes
Mr. Mathews: yes	Mr. Cochran: yes

THIRD READING OF RESOLUTION 2011-21 ADOPTING A COMPETITIVE BIDDING POLICY FOR RESPONSIVE AND RESPONSIBLE BIDDERS PURSUANT TO SECTION 9.312 OF THE OHIO REVISED CODE. Hilt motioned to adopt. Seconded by Cochran.

Mr. Hilt: yes Mr. Wolf: yes
Mr. Skeene: yes Mr. Conners: yes
Mr. Mathews: yes Mr. Cochran: yes

CALL OF MEMBERS:

Cochran – Nothing to report.

Conners – Nothing to report.

Wolf – Nothing to report.

Mathews – Nothing to report.

Skeene – Needs to fill out an event application for the upcoming Christmas Walk.
Riverfest, Inc. is taking this over.

Hilt – Nothing to report.

Skeene motioned to adjourn. Seconded by Conners.

Hilt: yes Wolf: yes
Skeene: yes Conners: yes
Mathews: yes Cochran: yes

Meeting adjourned at 8:18pm.

Mayor

Clerk of Council