

CITY OF OLNEY  
CITY COUNCIL MEETING  
OCTOBER 12, 2015

AGENDA #1 “CALL TO ORDER” The October 12, 2015, meeting of the Olney City Council was called to order at 7:00 p.m. in the Council Chambers of the Olney City Hall located at 300 S. Whittle Avenue, Olney, Illinois, with Mayor Ray Vaughn presiding.

AGENDA #2 “PLEDGE OF ALLEGIANCE TO THE FLAG-PRAYER” Council members and visitors joined in the pledge of allegiance to the flag. Don Meeks led the group in prayer.

AGENDA #3 “ROLL CALL” The following Council members were present: Les Harrison, Belinda Henton, John McLaughlin, Bob Ferguson, and Ray Vaughn. Also present were City Manager Allen Barker, City Attorney Bart Zuber, Deputy City Clerk Cindy Harlan, City Engineer Roger Charleston, and City Treasurer Chuck Sanders.

AGENDA #4 “PRESENTATION OF CONSENT AGENDA”

- 4-A Approve Minutes of Council Meeting on September 28, 2015
- 4-B Approve and Authorize Payment of Account Payable October 13, 2015: Petty Cash \$103.18, Pooled Cash \$117,088.24, Manual Pooled Cash \$118,637.24, MFT \$108,843.41, IMRF \$30,436.12, Unemployment \$2,001.29, Tourism \$29.99, 175<sup>th</sup> Anniversary \$1,560.16
- 4-C Raffle License-Together We Play Park
- 4-D Raffle License-ARC Community Support Systems
- 4-E Raffle License-OCC Athletics
- 4-F Raffle License-Olney Eagles Aerie #2549

AGENDA #5 “REMOVAL OF ITEMS FROM CONSENT AGENDA” No items were requested for removal from the consent agenda.

AGENDA #6 “CONSIDERATION OF CONSENT AGENDA” Councilman McLaughlin moved to approve the items on the consent agenda, seconded by Councilman Harrison. A majority affirmative voice vote was received to approve the consent agenda.

AGENDA #7 “CONSIDERATION OF ITEMS REMOVED FROM CONSENT AGENDA” No consideration was necessary since no items were removed from the consent agenda.

AGENDA #8 “PRESENTATION OF ORDINANCES, RESOLUTIONS, ETC.”

8-A “Request: Class B Liquor License (Wal-Mart Supercenter #254)” Michael Leistner, representing Wal-Mart Supercenter #254, addressed the Council with the request for a Class B liquor license. Requests have been submitted in the past, but were denied. Mr. Leistner stated that Walmart receives many requests from customers and employees to sell liquor. There is a room in front of the store where liquor could be sold, and it would be separate from the sales

floors. He understands the concern for youth accessibility. Metal gates could be used when sales are not allowed so the area would not be accessible. He thought just beer and wine would be sold and not necessarily refrigerated.

Mayor Vaughn referenced a list of cities in Illinois that allow Walmart to sell liquor. He inquired what restrictions these cities put on Walmart. Mr. Leistner said that Effingham does not allow any features outside of the room. Signs and banners can be placed outside the room, but not the product itself. In Paris and Flora, the features can be anywhere in the store.

Mayor Vaughn asked if other towns restricted the sales to just beer and wine. Mr. Leistner thought Flora, Effingham, Paris, and Marshall allowed only beer and wine sales. Lawrenceville does not allow the sale of alcohol. He is aware of five cities in Indiana that permit full alcohol sales.

Mayor Vaughn asked what additional steps were taken to prevent underage sales. Mr. Leistner replied their employees are trained properly and only experienced persons would be working in this area. In Mattoon and Effingham, underage persons working undercover try to come in and purchase alcohol, but are not successful in doing so. There are other preventative measures that can be used such as putting caps on top of hard liquor and higher end wines, restricting the products to behind the counter, or limit facings on the shelf to one deep.

Councilman McLaughlin inquired about the impact on local liquor stores in surrounding communities that allowed Walmart to sell liquor. There was no information available to answer that question.

The definition of the City's Class B liquor license includes the sale of all alcohol products. Mr. Leistner thought Walmart had made requests for a liquor license in the late 1990's and early 2000's. Additional employees would most likely be hired if alcohol sales were permitted. Mr. Leistner informed the Council there are 197 hourly associates (113 full-time equivalents), plus management personnel at the Olney store.

Bill Riggs addressed the Council stating that his wife Marilyn owns Marilyn's Liquor Cabinet in Olney. The store was purchased in 2005, and they are business owners in a small town. He stated Walmart is a giant and wondered if the Council would be required to let them sell all types of liquor. He felt Walmart runs small businesses out of town. There are three liquor stores in Olney and that is ample. The businesses are their livelihood. The liquor stores do not try to sell oil, milk, clothing, etc. Liquor is their specialty. If Walmart sells liquor, it will barely be above the cost and the local stores cannot do that. Marilyn's has four full-time and two part-time employees. He believes there is a good chance one of the local stores would have to close if businesses like Walmart are allowed to sell alcohol. Currently, the three stores in Olney purchase liquor from the same distributor. A liquor license is good for a location or corporation. If more than one store is owned, it is possible the product can be split between the stores. Mr.

Riggs asked what the Council will do if Walmart is allowed to sell liquor and then Ruler, CVS, Mach I, Motomart, Casey's, Red Rooster and other places request to sell also. He asked if the Council wants someone going to the gas station and buying a single and then going on the road and drinking.

Marilyn Riggs stated that if the product is sold at cheaper rates, the City will receive less sales tax revenue. Another local liquor store owner, Ron, was in attendance and he had purchased his business in either 2007 or 2008.

Mayor Vaughn had minutes from a meeting in 1998 when Walmart had requested a liquor license. At that time, there was an ordinance in effect that prohibited the sale of alcohol in grocery stores. The request was denied and the same issues that were brought up this evening were discussed then. If a license is granted to one, how many more will the Council allow? There are three package stores now, and at one time there were four or five. He is interested in knowing what is going on in surrounding towns. He has nothing against Walmart because they employ almost 200 people, and they have been good corporate citizens. When the request was made in 1998, another business owner in town thought he would have to get a license to remain competitive. The number of licenses available by ordinance are taken. In the past, if five licenses were available and four were taken, the Mayor had the authority to approve an application for a liquor license. However, what has been done lately is the number of licenses are reduced if a license is not taken. Now, applications have to come before the full Council on a case by case basis.

If Walmart is granted a license and next week there are four more requests, the analysis will become more difficult. He is not against approving the license, but Mayor Vaughn wants the Council to understand where we are going what the limits should be. Currently, there are no stated limits, but it takes three votes to approve a license.

Councilwoman Henton stated that the City has received letters every year from Casey's inquiring about the availability of a liquor license. Motomart has requested one and CVS has also inquired about a license.

Councilman Ferguson stated he is concerned with having an open door policy and does not see how the City could turn down other businesses if they request a license. In Flora, if a convenience store wants to sell alcohol, permission is granted. Considering a license request from a liquor store owner is different than from a convenience or grocery store.

Mr. Leistner understands the Council's concerns, but the liquor would be separated from the other merchandise. There are between 2,500 and 5,000 customers at Walmart every day, and not every customer is interested in purchasing alcohol.

Mayor Vaughn again stressed he has nothing against Walmart. It is just that there is not a policy in effect concerning the sale of alcohol in convenience and grocery stores, and he is concerned with what will happen if five more requests are received. If there was a policy and there were a certain number of licenses available to issue, it would be more workable. He has no concerns about Walmart having a license. Mr. Leistner again stated the sale of alcohol would be different at the Olney Walmart because they can offer a separate enclosed area with one entrance in and out which other stores cannot offer.

The Council took no action on Walmart's request for a liquor license. Mayor Vaughn told Mr. Leistner he appreciated the information from tonight and advised if the situation changes, everyone will be notified.

8-B "Discussion: Watergate Water Purchase Agreement" Mayor Vaughn reported that the Council will review the information that was provided by Walter Buss, as Mr. Buss was not in attendance this evening. Watergate does incur expenses as a water district, but the Council wants to make sure it is not setting a precedent if billing procedures are changed for Watergate.

Councilman McLaughlin asked how the water district is set up and if new homes can be added to the water line serving Watergate. City Engineer Charleston said the water pressure is off the tower in Northside Subdivision, but the 4" water line controls the volume. The volume would determine whether homes could be added.

Mayor Vaughn stated Watergate is a district similar to Noble, Parkersburg, and Dundas. Watergate has to have a licensed inspector to maintain the line. Councilman McLaughlin said he understands the argument that Mr. Buss has with how Watergate is being billed. Mayor Vaughn hopes to have this situation resolved by year's end.

8-C "Discussion: Authorize Bidding Process for W. Main Street Waterline Project" Mr. Barker stated that City Engineer Charleston is seeking approval to start the bidding process for the W. Main Street waterline project. Mr. Charleston wants to go out for bids in October, as EPA requires 45 days to review the bid materials. If bids are opened in December, it is possible to have construction begin in March or April 2016. Going out for bids now should also allow for more competitive bidding.

Councilman McLaughlin moved to authorize the bidding process for the W. Main Street waterline project, seconded by Councilman Ferguson. A majority affirmative voice vote was received.

8-D "Ordinance: Sale of Personal Property on GovDeals.com - Park Department" The Council was provided with a proposed ordinance for the sale of a leaf vacuum that is outdated and no longer needed in the Park Department.

Councilman McLaughlin moved to approve Ordinance No. 2015-40, seconded by Councilman Harrison. A majority affirmative voice vote was received.

8-E “Tourism Grant Application: Illinois Gymnastics Club of Olney Harvest Fest 2015” Kelly Henby, owner of Illinois Gymnastics Club of Olney, presented his request for a \$3,000 tourism grant to conduct Harvest Fest 2015 on November 7th and 8th. The USTA sets the entry fees, door fees, and where trophies are purchased. This event has brought over 30,000 people to Olney in the last five years. Hotels in Olney and surrounding cities will be filled as a result of this event as over 900 children will be participating. Local restaurants have asked to be advised of the dates of the event for preparation purposes.

In the past, Mr. Henby did not believe they were eligible for the grant, however, he was advised to apply by representatives of the Chamber of Commerce and The Holiday.

Mayor Vaughn stated the application is supposed to be presented to the Council 90 days in advance of the event. Part of the design of the grant is to increase attendance by advertising. Mr. Henby advised there is a very short time frame between bidding for the meet and approval of a location. The event will be advertised so that local people can come. The event will be held in the gym at the high school. The grant application specifies that all advertising reflect that funds were received from the Tourism Fund. Mr. Henby stated that advertising will begin in a week on the radio and tv.

Councilman Ferguson was of the opinion that tourism funds should be restricted to non profit organizations. Mr. Henby stated that anything done for kids is for profit.

Councilman McLaughlin believes tourism funds should be for non-profit organizations, but the application is not set up that way. The application provides that non-profits will be given more attention, and lower funding priorities will be given to applications than enhance the reputation of a business. The door has already been opened for profit businesses unless the Council changes the criteria.

Councilwoman Henton stated the purpose of the grant was to support “new” or “young” events to help gain momentum. She does not consider this event as new. Mr. Henby replied that in terms of USTA it is new.

Councilwoman Henton noted that \$9,000 in profit is expected from the event without the tourism funds.

Councilman McLaughlin suggested granting one-half of the requested amount.

Councilman Harrison said he understands both sides of the argument. The event is bringing people to the community, revenue to the City, and meets some of the eligibility requirements.

Mayor Vaughn moved to approve a tourism grant in the amount of \$1,500, seconded by Councilman McLaughlin. Mayor Vaughn, Councilmen Harrison and McLaughlin voted yes. Councilwoman Henton and Councilman Ferguson voted no. The motion carried.

Mayor Vaughn reminded Mr. Henby of the follow-up summary report that will need to be completed which helps to evaluate the effectiveness of the grant.

8-F “Ordinance: Closure of Unfinished Second Street Between 212 N. Lincoln Street & 216 N. Lincoln Street” City Attorney Zuber has been researching the property records for the area of 212 N. Lincoln and 216 N. Lincoln. When the property was platted, the blocks were numbered 1 through 14. Second Street was vacated in some of the blocks in 1927. However, Blocks 13 and 14 were not. As of now, Olney has a Second Street for one block between Lincoln and Jackson. The use of the property has changed. There are two houses located on the properties.

Pam Hahn, owner of both properties, said that in a real estate transaction in 1954, there was no mention of Second Street in the abstract.

Mr. Zuber suggested the City could vacate the street and set the price at what has been used in the past which is \$.15 per square foot. This formula would set the price at approximately \$663.68 plus a recording fee of \$65.00. In response to a question on whether the City had waived this fee in the past, Councilwoman Henton did not remember the fee being waived. The City has no use for this property and there are no visible easements on the property.

Mrs. Hahn believes the block was re-platted at some point and that a lot of the alley and street vacations were not listed. Mrs. Hahn searched records of the City Council minutes up to 1964 and found no record of discussion on this topic.

Councilman McLaughlin suggested vacating the street and having the owner pay only the recording fee.

Mrs. Hahn stated this situation was discovered when the property was appraised and the appraisal showed the house being wider than the lot. She is not in favor of paying for something that her parents have owned since 1957.

Councilman McLaughlin felt that if the City was in error, the heirs should not have to pay to vacate the unfinished street. Mayor Vaughn stated it was not known if anything was done

wrong in this case. Councilwoman Henton was concerned with how making a decision that nothing should be paid for the property would affect those who have had to pay in the past.

Mrs. Hahn did not want more time to research this topic.

Councilman McLaughlin moved to vacate the unfinished Second Street as requested and charge only the recording fee, seconded by Councilman Ferguson. Upon roll call, Councilman Harrison, Councilwoman Henton, and Councilmen McLaughlin and Ferguson voted yes. Mayor Vaughn voted no. Ordinance No. 2015-41 will be prepared.

AGENDA #9 “REPORTS FROM ELECTED AND APPOINTED OFFICIALS”

9-A “City Manager - Status Report” City Manager Barker gave his status report after the items on Agenda #10.

AGENDA #10 “PUBLIC COMMENTS/PRESENTATIONS”

10-A “Brian O’Neill” Brian O’Neill, 818 E. Main Street, advised the Council he was a presidential candidate for 2016. Mr. O’Neill made several statements and ended his discussion with stating he had heard Olney was in the top 10 communities in Illinois, but after research he believes Olney has more crime per capita than any other city in the United States.

10-B “Adena Rivas” Adena Rivas introduced herself to the Council and informed everyone she works for Elevate Energy, a non-profit agency promoting programs to save people money on their utility bills. She has been in this area since June and will be leaving in December. During her time here, she has tried to reach out to as many people as possible about ways to save energy. She has focused on teaching people about smart or digital meters which automatically send your power usage to the utility company using a wireless radio. Olney is in the process of putting that signal online. This will allow the utility company to better manage the power grid, detect outages, and reduce meter-reading costs. It also gives the customer better access to their own home’s energy usage. Ms. Rivas would like to know how to reach the community. She has been to the Rotary, OCC, and arranged a presentation at Ophelia’s Cup. Technology is ever changing, and she is trying to keep people informed so they can find ways to reap the benefits and to ease worries about security issues.

Mayor Vaughn thanked Ms. Rivas for her presentation to the Council.

City Manager Barker reported that the Street Department crews are getting as much done on the streets and other areas as they can before the weather changes. The sidewalk project is coming along nicely and work continues on the north end until the necessary culverts are installed.

Mr. Barker, Frank Bradley and City Engineer Charleston met recently at the community building to discuss renovation plans. Recommendations will be presented at the next Council meeting.

In the next 30 days, there will be a lot of work done in preparation for the Enterprise Zone application.

City Treasurer Chuck Sanders reported the City is doing alright financially, and cash balances are good. The State owes the City approximately \$100,000 of which half are motor fuel tax funds and about \$25,000 in video gaming. Use tax was not received in September.

Mayor Vaughn reminded everyone that October 17<sup>th</sup> is the last Saturday for the squirrel count and a few volunteers are still needed.

Also, last week Magura celebrated its 40<sup>th</sup> anniversary of being in the United States. The facility on W. Clem St. has 21 full-time employees and manufactures many items.

Last year, some ground at Musgrove Park was reserved for the “Together We Play” project. Fundraising efforts are going well and it is hoped equipment may be purchased before the end of the year.

Mayor Vaughn announced that Matt Courter’s last day with the Olney Daily Mail was last Friday. Mr. Courter always did a fair job recording the City news and he will be missed.

AGENDA #11 “CLOSED SESSION: SALE PRICE OF REAL PROPERTY; ACQUISITION OF REAL PROPERTY, APPOINTMENT, EMPLOYMENT AND PERFORMANCE OF SPECIFIC EMPLOYEES; COLLECTIVE NEGOTIATING MATTERS; AND ONGOING, PRIOR OR FUTURE CRIMINAL INVESTIGATIONS” Councilman Harrison moved to adjourn to closed session to discuss sale price of real property, acquisition of real property, appointment, employment and performance of specific employees, collective negotiating matters, and ongoing, prior or future criminal investigations, seconded by Councilwoman Henton. A majority affirmative voice vote was received.

Councilmen Harrison, McLaughlin, Ferguson, Councilwoman Henton, Mayor Vaughn, City Manager Barker, City Treasurer Chuck Sanders, City Attorney Zuber, and Deputy City Clerk Harlan left the Council Chambers at 8:15 p.m.

AGENDA #12 “RECONVENE OPEN SESSION” Upon the return of those who were in closed session to the Council Chambers, Mayor Vaughn moved to enter back into open session, seconded by Councilwoman Henton. A majority affirmative voice vote was received. Open session resumed at 9:03 p.m.

City Manager Barker stated he received a request to locate a concession type trailer on the street in front of Bobalou's one night per week - either Friday or Saturday.

City Attorney Zuber discussed whether this request would comply with the City ordinance and thought the language on peddling on City property was a bit archaic. Not knowing the legislative history, approving this may increase the number of peddlers, and he was sure the Council would not want Main Street filled with people selling merchandise from their trunks. If reading the ordinance more liberally, there is an exception for manufacturers or producers of goods, but the question is whether a food truck produces food. The ordinance could be amended to allow for a food truck.

City Manager Barker stated the Department of Public Health has been contacted about this request, but no response has been received. In some states, there has to be a commissary to return to each day to restock, clean, etc. The question is how many concession trailers does the Council want on the streets.

Mayor Vaughn wondered how restaurant owners would feel about this.

Councilwoman Henton said there have been many requests for food trucks in the past. They have been told they could be located on private property.

Mayor Vaughn suggested that an ordinance be given to him for review.

City Manager Barker has also received a request from a landlord to increase water deposits. Currently, the water deposit is \$125.00. According to Councilwoman Henton, since the amount was increased to \$40 before service is shut off, the City has written off more bad debt. Renters and homeowners with no credit history with the City are required to pay deposits. Homeowners are eligible to have the deposit credited to their account once 12 on time payments are made. It was suggested that maybe the deposit could be raised for renters and not require homeowners to place one. It was also noted that if deposits are increased, there will be many complaints and maybe it would be easier if landlords collected larger deposits from their tenants.

Councilwoman Henton stated she would like to change the tourism application. Councilman Ferguson suggested a committee be formed with Councilwoman Henton, City Clerk Sterchi and local hotel owner Julie Schrey to review the application criteria.

Councilwoman Henton reported there is \$64,000 in the Tourism Fund. She asked why \$25,000 was donated from General Corporate for the 175<sup>th</sup> anniversary celebration. She believes General Corporate should be reimbursed from tourism. Mayor Vaughn responded that the initial investment from the City towards the celebration was made last fiscal year. He did not want to short the Tourism Fund for other events such as the car show and if additional funds are needed for the celebration, tourism funds could be used.

Councilman McLaughlin stated the local Chamber of Commerce benefits from the Tourism Fund, and the funds are important to its operation. Councilman Ferguson believes there is property in the south industrial park that could be sold and the monies shared with the Chamber.

Councilwoman Henton said that last year the boat fees were changed and now there are three classes of annual permits and four classes of daily permits. She believes there should be four classes in both since the price for an annual permit for a non-powered boat doubled in price. She would like to prepare a proposal and have it put on the agenda for discussion. Mayor Vaughn said rates for those outside city limits were raised, and he was advised that more classes were not necessary.

Councilwoman Henton inquired about the Pepsi contract that has expired, and asked if the City was going to renegotiate. It was mentioned that in the past, complaints were received that the concession operators could buy the products cheaper elsewhere. Councilwoman Henton believes that since the City is not making any money from concessions that at least the City could get free equipment. This topic may be discussed later after reviewing the revenue generated from concessions this year.

Councilwoman Henton reported that 15,840 pounds of corn were given away to 68 people for squirrel food.

Councilman McLaughlin said that the entry forms for the Christmas Parade were being mailed this week.

12-A “Resolution: Authorize Collective Bargaining Agreement with the Fraternal Order of Police Labor Council Representing the Patrol Officers and Sergeants” Councilman Ferguson moved to approve Resolution No. 2015-R-54 authorizing a collective bargaining agreement with the Fraternal Order of Police Labor Council representing the patrol officers and sergeants, seconded by Councilman McLaughlin. A majority affirmative voice vote was received.

Mayor Vaughn was pleased that the shorter agenda enabled the Council members to have discussion after closed session.

AGENDA #13 “ADJOURN” Mayor Vaughn moved to adjourn, seconded by Councilman Harrison. A majority affirmative voice vote was received.

The meeting adjourned at 9:25 p.m.

Cindy L. Harlan  
Deputy City Clerk