OHIO COUNTY COMMISSION
8/9/2022

The Ohio County Commission met in regular session on Tuesday, August 9, 2022, at 6:00 p.m. The Pledge of Allegiance was recited.

Present at the meeting was President Randy Wharton, Commissioner Don Nickerson, Commissioner Zach Abraham, Solicitor Don Tennant, Sheriff Tom Howard, Assistant Finance Director Cody Koehler and Finance Director Rodd Archey. Absent from the meeting was Administrator Randy Russell.

Delegations

Scott Sonda a resident outside of West Liberty on Grimes Ridge Road, reported that he was here at the last Commission meeting to speak about a possible noise ordinance in Ohio County. There was a party that was going on a mile or so up the road from his house where explosives were being set off until about midnight or so. His neighbors are here also tonight, and they recently had an annual pig roast this past Saturday. They did an exceptional job; they had a lot of people there; a singer, and everything was well taken care with no excessive noise, but they were very respectful and quiet in the evening. The other behaviors still stands that he spoke about at the last meeting. The 4 wheelers and side by sides, and there is still general disrespect. He reported that he is just here this evening to ask if there is an update on the noise ordinance. Solicitor Tennant responded saying that he has acquired ordinances from a few other Counties. He has in a preliminary way selected a form ordinance form Jefferson County in the Eastern Panhandle. There have been three or four revisions of that ordinance. The Commission is not yet ready to vote on the ordinance, and it still needs review and consideration before it would be brought to the table for a vote. He reported within a few meetings he would be able to bring a draft back to the Commission for a vote.

Commissioner Nickerson reported he has a draft with revisions of red lines so that you know that we are working on it.

Alicia & Scott Medlen

Alicia Medlen, a resident of Bethany, WV on Grimes Ridge. She reported that she is the host of the pig roast every year, and she agreed the pig roast was quiet this year, but if something happens off her property, she has no control. She asks people to leave with respect. The fireworks a week prior that she was blamed for, she reported she was not home at the time. It was not her. Her side by sides are stock exhaust and the four wheelers are stock exhaust also. She rides them on unmarked roads, and she feels like her kids have the right to ride their bikes. She stated they are not allowed to go past Mr. Sonda's house and most of the time they are down below on her mom's property. She has had the Sheriff and State police stop by a few times.

Julie Cox

Julie Cox reported that he lives at 226 Grimes Ridge Road, so she wanted to speak tonight mainly to ask a question. Would this noise ordinance cover the whole entire County. Solicitor Tennant replied it depends on how it is written. She asked if the Commissioners have received many complaints about noise in our area and it is a problem. Commissioner Nickerson stated he has received a few periodically, but his opinion is one is too many. The Sheriff could answer that question better. Sheriff Tom Howard reported he gets calls from all over the County. She asked if most ordinances are overnight hours.

Solicitor Tennant repeated it depends on how it is written. It must be fair and reasonable for the citizenry of the County. The Commissioners would agree that the people that live in the county, live there for a reason and that is that they want to live in the Country where they are not obligated to abide by for example the City of Wheeling ordinances. This Commission does respect the free people that live with in the County outside of any municipality because they have chosen to live in an area where they are free. Julie Cox reported that her neighbors are hundreds of feet away and every neighbor has their hobby. She stated one breeds dogs, one has a shooting range, and her family does motor sports and Mr. Sonda is probably complaining about her exhaust to be honest. Her children are all racers, they have a track on their property. He probably hears us through the valley every time they fire one up. Is that not our right to have that sport and practice on our property? It is not late at night.
Solicitor Tennant stated you generally do under the law unless there is an ordinance that is passed where it is at the level of a public nuisance. A public nuisance can emulate from a piece of private property. She states it is summer, and it is not just the kids. It is young adults. Her road is like the connection road from place to place and friend to friend.

Approval of Minutes

Commissioner Nickerson made a motion to approve the minutes form the July 26, 2022, Commission meeting. Second by Commissioner Abraham. Motion carried with all voting in favor.

Grants

SVAW FY 2023 Award

Finance Director Archey reported on the SVAW grant that helps to fund the Prosecuting Attorneys part-time Attorney, partial reimbursement for a Sheriff's deputy and an employee at the Sexual Assault Help Center. The award for the Prosecutor this year is $18,505.00, and the match is $6,169.00. The Law Enforcement award was $24,832.00 with a match of $8,444.00, and the Sexual Assault Help Center would receiving $22,248.00. Our complete required match is $14,613.00. The entire match is in the budget already. Commissioner Abraham made a motion to approve the grant. Second by Commissioner Nickerson. Motion carried with all voting in favor.

COMMUNITY GRANTS

Wheeling Area Chamber Steak Fry-Finance Director Archey reported that the first Community Grant request the Commission has tonight is for the Wheeling Area Chamber Steak Fry that is happening this week. Last year the Commission gave a contribution of $500.00. Commissioner Abraham made a motion to approve $500.00 for the Chamber Steak Fry. Commissioner Nickerson stated he will second the motion but that in the future please make sure that the Commission is aware of other sponsors and make sure it is approved by everyone to put on the agenda.

Miracle League's Second Annual Charity Run & Car Show

Finance Director Archey reported that next is a request from the Miracle League's Second Annual Charity Run & Car Show. Last year the Commission gave $200.00. Commissioner Abraham made a motion to approve $200.00 for the Miracle League event. Second by Commissioner Nickerson. Motion carried with all voting in favor.

Foundations Baseball

Finance Director Archey reported that next there is a request from Foundations Baseball, and he believes the Commission requested some additional information. Commissioner Nickerson stated he had asked Doug Costain for some budget information that he has not received yet, so he would like to table until the Commissioners get more information. Second by Commissioner Abraham. Motion carried with all voting in favor.

OLD BUSINESS

ARPA Funding Update

Finance Director Archey reported he does not have an update at this time.

NEW BUSINESS

PRO Agreement FY 2022-23

Solicitor Tennant reported that he and Administrator Russell worked on this with Mr. Croft from the school board. It is language that Mr. Croft has accepted, and he thinks the Board of Education has already voted upon it. It is consistent language with the previous agreement. There are three PRO's. Commissioner Abraham made a motion to approve the PRO agreement. Second by Commissioner Nickerson. Motion carried with all voting in favor.

ABCC Request-Oglebay Fall Food Truck Fest

President Wharton reported that this is a request from Oglebay to apply for a non-intoxicating floor plan extension at the Hess Shelter for the Oglebay Fall Food Truck Fest. Commissioner Abraham made a motion to approve the ABCC request. Second by Commissioner Nickerson. Motion carried with all voting in favor.

Sheriff Department New Hire- Isaac Wiley

Sheriff Howard reported he had just hired Isaac Wiley as a security guard, and he was next on the list to hire as a deputy. He has passed everything so he would be like to hire him as a deputy.

Proposed Noise Ordinance

President Wharton asked the other Commissioners is there any more discussion beyond what was already discussed. Commissioner Nickerson asked if it was the same version Solicitor Tennant had revised earlier. Solicitor Tennant replied yes, but not all because he had not heard back from both Randy and Zach. He thinks the one thing was an issue, whether the ordinance that is proposed is going to have a time that the ordinance can be enforced which means a start time and ending time. He reported that he thought Don Nickerson's position is that there not be no time limitations. Commissioner Nickerson replied yes if the definition of "excessive" is satisfactory. Solicitor Tennant reported that he feels that is up for discussion with the other two Commissioners on the issue. Solicitor Tennant spoke about another Counties ordinance that used decimal levels in theirs. That can be complicated because not everyone carries a decimal reading device which law enforcement would have to have. Solicitor Tennant did report that in the ordinance the Commission is looking at would be only residential not commercial sound emissions.

Commissioner Abraham reported that he read through it and my commentary on this that he grew up on a farm and though there's lots of noises that happen, animal noises, coyotes, this is not, this issue can be very subjective, and he is one not to limit the freedoms. The nuisance issue is an issue, my first comment was is there having to be a respect between neighbors. He stated that first must be done, because if that does not happen, you're not going to solve it.

President Wharton reported that after reading, he had a discussion with Solicitor Tennant about it. He feels the ordinance is extremely vague. He does not think this ordinance is going to be an issue for any of these three families that are here today because they all sound like they are very respectful and may work a lot of this out. Anytime he has been called upon to enact and ordinance or enforce one he is always mindful that it is directed at the right people. He feels there is a lot of the noise in the County. He lives in the City, so he lives under all the restrictions within the City. The oil & gas workers have been some of the biggest offenders of noise to this date and so he will support the ordinance if it brings them under the umbrella and wants to make sure that it is written so the Sheriff can enforce it. He said his job is not to make residents miserable, our job is to protect everybody. Let's give it a week or two and then move on from there. Commissioner Abraham stated one thing he would like to investigate is the question if we are getting may complaints, so maybe it is worth it to have a period of time to have people weigh in on that whether they do or they don't. He feels if they do not give the public the opportunity to weigh in it would be detrimental to us as a body trying to enforce something that the public doesn't want. He just wants to make sure the Commission does this judiciously and with public input if we can. Solicitor Tenant reported the public needs to understand with a noise ordinance on a criminal level the Sheriff's men & woman are really hand cuffed on the current West Virginia law as to when they can swear out a warrant or write a ticket as to this type of thing as to whether it occurred within their presence. So, it becomes more difficult if the officers are not present at the time. Commissioner Abraham reported he feels the Commission should have an open comment period at our next meeting. President Wharton reported he recommends we table this until next meeting. He feels they will receive some comments.

Jeff Hart

Jeff Hart stated he lives about a mile from the other residents that have spoken tonight. The noise is nonstop with the side by sides, all kinds. He reported that there is no peace on the weekends. He stated it is excessive. He stated a lot of the noise is coming from Harvey Road and GC & P Road. He reported that the kids feel they can ride on the highway now, not staying on the private roads.

Bid Results-Structural Fire Fighting Gear

Administrator Russell reported by phone that West Liberty Chief Fowler approached him about firefighting gear, and he was looking at twenty-five (25) sets which is well over the amount that he would have to bid out. To allow all of the fire departments in Ohio County to purchase off of this bid, we bid it out as Ohio County Commission, and we will ultimately issue the purchase order for the structural firefighting gear for West liberty as part of their ARPA grant that you all have approved. Bethlehem is also looking at possibly sixteen sets and he has not heard back from the other departments yet, but he anticipates that some of those will also purchase sets. He is looking for the Commission to approve the fact that he has bid this out and the final numbers will come in at some point later. He will also attempt to do this for other equipment that the departments may need which exceed the bid limits. He reported that they need to comply with the West Virginia bid requirements. Administrator Russell reported that he worked with Bob Fowler to come up with the specifications to fit their needs. He told the volunteer fire departments that if he needs to do a different bid for their specifications that he would do that. Commissioner Abraham made a motion to approve Arnold Fire Equipment LLC. Second by Commissioner Nickerson. Motion carried with all voting in favor.

STAFF REPORTS/ ELECTED OFFICIALS REPORTS

Public Safety

Emergency Management Director Lou Vargo reported that he spoke with Health Department Director Gamble who reported that the COVID cases are on the rise, but the good things are that is not serious symptoms. He stated that there are four cases of monkey pox in the State of West Virginia.

Sheriff Howard reported that last week he had the PRO conference up at the Highland's. It was the largest up to date. Corporal David Drahos won PRO of the year, and Sargent Clatterbuck received a Community Service award for all the work he does at the schools. These are both very prestigious awards. He stated they are still dealing with the speeds on I 70. A lot of citations have been issued up there. The area by the state line which will stay at 45 miles per hour until the construction is done. He is monitoring 18th Street which will not be done until November. He still has issues with West Alexander and Stone Church truck traffic. Sheriff Howard reported that he has one person retiring soon and one person leaving for another job. He stated he only had nine people pass the last test and all of those did not make it through. He stated he hopes to test again in the next month or two. He stated he has three left out of the nine. Sheriff Howard stated he wanted to say thank you to Lisa Sims up at the Highlands Conference Center. Brian Taylor and his crew did a wonderful job.

FINANCE DIVISION

Bills

Finance Director Archey reported that the Commissioners have a copy of the bills as they are up to date. Commissioner Abraham asked what is the Just Us invoice was. He replied it is our storage of records down at the old Bakery. Commissioner Abraham made a motion to approve the bills. Second by Commissioner Nickerson. Motion carried with all voting in favor.

Finance Director Archey reported that the Commissioners have a copy of the 2021 Audit before them with one finding which is about the vacation time. He stated now we have the new software that hopefully will remedy the issue. He stated hopefully by the end of this month we will be getting notification of bidding out an RFP for the 2022 audit. He reported that he has requested three years this time. It has been two years the past few times.

Exonerations

Finance Director Archey reported that the Commission has twenty-five exonerations. Twenty-three are credits, two are debits, and they are all recommended by the Assessor's office. Commissioner Nickerson made a motion to approve the exonerations. Second by Commissioner Abraham. Motion carried with all voting in favor.

Certificate of Re-Entry

Finance Director Archey reported that there are two certificates of re-entries for tonight's meeting. One is a Mr. Joe Tweedlie, who purchased a property from the State for years 2009-2013. They did not get back on the books. The other one is Mr. Bloomfield; it was sold to the State in 2010 but was redeemed prior to 2011, but it was already suspended it in the tax office who never took the suspension off until 2015. He is asking the State to put that one back on the books also. Commissioner Abraham made a motion to approve the two certificates of re-entry. Second by Commissioner Nickerson. Motion carried with all voting in favor.

ELECTIONS

Finance Director Archey reported that all the Commissioners have a copy of the Emergency Absentee Voting Policy. The Commission is required by the State to approve this policy for each election. Commissioner Abraham made a motion to approve the Emergency Absentee Voting Policy. Second by Commissioner Nickerson. Motion carried with all voting in favor.

COMMISSION BOARD REPORTS

Commissioner Abraham reported that he had an Airport Advisory Committee meeting a while back and a REDP meeting. REDP did a survey of the Airport which was a good report.

COMMISSIONERS COMMENTS

President Wharton reported there is a holiday coming up which is Labor Day on Monday, September 5, 2022. All offices are closed except for those that are required to be open.

FUTURE MEETINGS

President Wharton reported the next meeting will be on Tuesday, August 23, 2022, at 6:00 p.m. Meeting adjourned. All are subject to change.

President, Randy Wharton

Administrator, Randel Russell