

**MINUTES**  
**SMITHS GROVE CITY COMMISSION REGULAR MEETING**  
**SMITHS GROVE MUNICIPAL BUILDING**  
**MONDAY NOVEMBER 25, 2013 7:00 P.M.**

All members Present

Also Present: City Attorney Wes Milliken

Mayor Higginbotham called the meeting to order at 7:00 pm.  
All present recited the Pledge of Allegiance

Mayor Higginbotham recognized special guests.

**READING AND APPROVAL OF MINUTES**

Minutes of Regular Meeting (October 28, 2013)

The meeting minutes were approved by acclimation.

**REPORTS**

Treasurer Report (October, 2013)  
Report was approved by acclimation

**Public Works Report**

Commissioner Lawrence Stiffey stated he had nothing to report at this time.

**Police, Public Safety, Health and Welfare Report**

Commissioner Varner read the Police Report for the month of October.

**Cemetery Report**

Commissioner Pierce reported that Brian Gaul has finished the mowing of the cemetery for this season.

**Code Enforcement Report**

Commissioner David Stiffey stated he has nothing to report at this time however, he did put a new flag up at the cemetery and he would like a total on the cost of mowing at the next meeting.

**COMMITTEE REPORT**

**Christmas Parade**

Commissioner Varner reported that at this time there are 30 applicants, we have two banners up and two more ordered, and there are more dignitaries this year than ever before.

**OLD BUSINESS**

**150 Third Street**

Mayor Higginbotham stated that as per his conversation with Attorney Milliken this matter is still tabled due to litigation.

## **NEW BUSINESS**

### **First Reading of Ordinance Number 13-010 240.20**

An Ordinance setting an annual salary for the Smiths Grove Mayor and City Commissioners.

The Ordinance was read in its entirety by the clerk and then Mayor Higginbotham explained that this would not go into effect until 2015.

A motion was made by Commissioner David Stiffey to accept Ordinance Number 13-001 240.20 and the motion was second by Commissioner Pierce. Roll was called: Commissioner Varner – NO, Commissioner Lawrence Stiffey - YES, Commissioner Pierce – YES, Commissioner David Stiffey – YES, Mayor Higginbotham – NO. The motion was passed with a vote of 3 – 2.

### **First Reading of Ordinance 13-009 410.00**

An Ordinance Codifying Inspection and Maintenance of sidewalks in the City of Smiths Grove.

The Ordinance was read in its entirety by the clerk.

Mayor Higginbotham stated that about five (5) months ago he had given a copy of an article published by the Kentucky League of Cities to each of the commissioners. The article stated that every city should have an Ordinance establishing an inspection and maintenance for sidewalks to minimize possible liability. The drafted Ordinance was given in advance to the Commissioners for their perusal on November 14 so suggested changes could be made prior to the meeting.

After the reading of the draft Ordinance, Commissioner Lawrence Stiffey advised the Commission that he had problems with the Ordinance as drafted.

A substantial group of citizens were in attendance and the Mayor acknowledged them and several wanted to address the commission by holding up their hands.

Resident, Diane Stiffey was recognized and given the floor. She stated that some of the newer sidewalks were installed with poor workmanship and she does not think the property owners should be financially responsible. Also, if the sidewalk belongs to the property owner, they have the right to do with it whatever they want and the cities other Ordinances concerning sidewalks should be null and void.

Mayor Higginbotham tried to explain that this Ordinance is not changing any laws. The sidewalks have always been the responsibility of the property owner as per State law. This Ordinance would only be establishing a procedure for the city to minimize liability and establish a process for sidewalk inspection and notification of the property owner when repairs were needed. It was noted that the City of Smiths Grove has no Ordinances concerning sidewalks.

Don and Connie Laws stated that they did not even want a sidewalk and while they were on vacation it was installed. They were told by the previous Commission that they didn't have a choice.

Diane Stiffey asked that if someone were to get hurt did that mean it was her problem. Mayor Higginbotham replied yes but if there is no proof that the city informed her of the problem they could be held liable as well which was the purpose of the proposed Ordinance.

Ms. Velta Rose Smith stated that when the sidewalk was put in by the Christian Church it went across the parking lot taking away their parking spaces, and across the alley. They never wanted the sidewalk in the first place. Commissioner Pierce stated that the alley would be the responsibility of the city.

Commissioner David Stiffey stated that we need an Ordinance but he does not feel that it should be the property owner's responsibility. He feels that the city should have a fund set aside to repair the sidewalks.

Mayor Higginbotham stated that at the time the newer sidewalks were installed he was on the commission and there were at least four (4) or five (5) Commission meeting on the matter before they voted to install the proposed sidewalks. The residents were notified through normal procedures. The commission can't help it if residents did not come to the meetings and be heard on the matter.

Mr. Anthony Stidham stated that the City of Bowling Green, the KY Department of Transportation, and Warren County maintains their right of way and that he feels that Smiths Grove does not want to take responsibility for theirs.

Once again Mayor Higginbotham tried to explain that the Ordinance was not changing any laws and if any property creates a public hazard it is the cities responsibility to notify the property owner.

Attorney Milliken stated he would like to go back to Commissioner David Stiffey's statement about the city setting aside money to repair sidewalks. He felt that it was something the city should look at; however, he also felt that anyone with a crack in their sidewalk would be calling wanting the city to repair it.

Mayor Higginbotham stated that he concurred with Attorney Milliken but felt it would open up a can of worms leading to an endless cycle of demands for repair work that the city could not afford. He questioned how the residents of Smiths Grove want the city to increase taxes to cover the city's cost of repairing sidewalks?

Mr. Stidham asked how much of each property does the city own. Mayor Higginbotham answered that the property owner, with a few exceptions, owns to the middle of the street and streets and roads are basically an easement to government for passage of people and goods for the common good. He also stated that the government has the right to do things for the public good such as sidewalks for pedestrian easement.

Mr. Coker stated that he wanted a No Parking sign on his street because people from the school are always parking on his property and/or blocking his drive and they get hostile when he asks them to move. He was told he could not get one. Mayor Higginbotham asked him who told him

this could not be done because it would have had to come through his office and he has never heard anything about this request until now. Mr. Coker stated he was just told it could not be done.

Commissioner Pierce stated that the sidewalk on Laurel was installed to keep persons from walking in the street and unfortunately was not properly done as the sidewalk was built adjacent to the road. When asked by those in attendance whose fault that was; Commissioner Pierce stated that Anderson Engineering had installed it and unfortunately when the Commission looked at the blueprints, since none of them were engineers they did not know what they were looking at, and depended on Anderson's expertise.

At this time Mayor Higginbotham made a motion to disapprove Ordinance 13-009 410.00 and the motion was second by Commissioner Stiffey. Discussion was called for.

Commissioner Pierce stated he believes there should be a working session to further discuss and work through how to take care of the sidewalks.

Mr. Coker stated that instead of "trashing" the Ordinance it should be rewritten to include a cost share of 50/50 making it a win/win. Mayor Higginbotham said it was easier to totally redraft the Ordinance than to amend it. Plus if the provisions would ultimately include shared payment the length of the Ordinance would many extra pages to establish who pays what.

Commissioner Pierce stated he believes some of the citizens should volunteer to be on a committee to discuss this issue. Commissioner David Stiffey said that he would chair the committee. Diane Stiffey, Mr. Stidham, Mr. Coker and Commissioner Varner will all serve on the committee.

At this time the roll was called on the motion: Ayes all members so the Ordinance was disapproved.

With there being no further business to conduct, Mayor Higginbotham adjourned the meeting at 8:00 pm.

APPROVED \_\_\_\_\_  
BERT E. HIGGINBOTHAM, MAYOR

ATTEST \_\_\_\_\_  
DEBORAH K. BREWER, CITY CLERK

DATE \_\_\_\_\_  
Minutes were prepared by Deborah K. Brewer, City Clerk