

**MINUTES  
PIQUA CITY COMMISSION  
Tuesday April 6, 2010  
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Fess called the meeting to order. Also present were Commissioners Martin, Vogt, Terry, and Wilson. Absent: None.

**REGULAR CITY COMMISSION MEETING**

**OATH OF OFFICE**

Police Lieutenant Marcos A. Rodriquez

Law Director Stacy Wall administered the Oath of Office as Police Lieutenant to Marcos A. Rodriquez.

**PROCLAMATION**

Piqua Show Choir – “The Company”

The Piqua Show Choir “The Company” came forward and performed several of the songs from their program. The “Company” received four Grand Champion awards this year and brought wonderful recognition to the City of Piqua, stated Mayor Fess.

Mayor Fess read the Proclamation and presented it to Director Tom Westfall, and thanked him and the Piqua Show Choir for coming to perform. They are truly amazing and a wonderful tribute to the City of Piqua, said Mayor Fess.

Moved by Commissioner Martin, seconded by Commissioner Vogt, to move the Communication From City Manager (The response to Russ Fashner’s questions from the March 16, 2010 meeting) to Old Business. Voice vote, Aye: Martin, Vogt, Fess, Terry, and Wilson. Nay: None. Motion carried unanimously to move the Communication From City Manager to Old Business at this time.

**Consent Agenda**

**Approval of Minutes**

Approval of the minutes from the March 16, 2010 Regular City Commission Meeting

Moved by Commissioner Vogt, seconded by Commissioner Martin, that the minutes of the Regular City Commission Meeting of March 16, 2010 be approved. Voice vote, Aye: Wilson, Fess, Terry, Martin, and Vogt. Nay: None. Motion carried unanimously.

**New Business**

**ORD. NO. 7-10 (1st Reading)**

An Ordinance authorizing an amendment to Ordinance No. 42-96 and the zoning map attached thereto to assign a zoning designation of R-3 (Multi-Family Residential) to parcel J27-032000

**Public Comment**

No one came forward to speak for or against Ordinance No. 7-10.

Ordinance No. 7-10 was given a first reading.

**ORD. NO. 8-10 (1st Reading)**

An Ordinance authorizing an amendment to Ordinance No. 42-96 and the zoning map attached thereto to assign a zoning designation of R-2 (Two-Family Residential) to parcel N44-004010, also known as 316 North Downing Street

**Public Comment**

Scott Thobe, Troy property owner, came forward and stated he would like to have the property rezoned from Business to Residential at this time.

Commissioner Martin asked if changing the zoning would limit the use of the property. City Manager Enderle stated yes, it would limit the use. Mr. Martin asked if Mr. Thobe was ok with this, and Mr. Thobe replied yes.

Ordinance No. 8-10 was given a first reading.

**ORD. 9-10 (1<sup>st</sup> Reading)**

An Ordinance authorizing an amendment to Ordinance No. 42-96 and the zoning map attached thereto to assign a zoning designation of R-2 (Two-Family Residential) to parcel N44-004000, also known as 320 North Downing Street

**Public Comment**

No one came forward to speak for or against Ordinance NO. 9-10.

Ordinance No. 9-10 was given a first reading.

**ORD. 10-10 (1<sup>st</sup> Reading)**

An Ordinance amending Chapter 111 of the Piqua Municipal Code Peddlers and Solicitors

There was discussion concerning who would be subject to the soliciting regulations, such as the Girl Scouts/Boy Scouts, and children selling school and sports products, and etc. Also how would penalties be taken care of, and the reason to have this type of legislation in place. Commissioner Wilson inquired if it would be possible to add public service to the penalty section in lieu of payment under certain circumstances. Mayor Fess asked if the Law Director would define "Panhandling", and how would someone know they would need a permit in Piqua. Ms. Wall read the section on Panhandling and gave a brief overview. Commissioner Terry asked what did the City of Englewood do that prompted the City of Piqua to put this in place. Ms. Wall explained the reason for the Ordinance at this time. Commissioner Martin inquired if there was a curfew listed on the legislation. Ms. Wall stated yes, the time frame would be from sunrise to sunset in the City of Piqua.

**Public Comment**

No one came forward to speak for or against Ordinance No. 10-10.

Ordinance No. 10-10 was given a first reading.

**ORD. 11-10 (1<sup>st</sup> Reading)**

An Ordinance amending Section 94.20 (Section D) of the Piqua Code relating to (Community Swimming Pool Fees) and Section 94-24 (Sections C & F) of the Piqua Code relating to (Regulations for Public Parks and Pools)

Commissioner Martin asked about the days and hours for rental of the pool. City Manager Enderle explained the days it would be available. Parks & Recreation Director Rob Stanford gave a brief overview of the hours of operation and the fees.

**Public Comment**

No one came forward to speak for or against Ordinance No.11-10.

Ordinance No. 11-10 was given a first reading.

**RES. NO. R-42-10**

A Resolution of Appreciation for the Public Service of John J. Speer as a City Employee

Mayor Fess read the Proclamation.

**Public Comment**

No one came forward to speak for or against Resolution No. R-42-10.

Moved by Commissioner Martin, seconded by Commissioner Vogt, that Resolution No. R-42-10 be adopted. Voice vote, Aye: Fess, Terry, Wilson, Vogt, and Martin, Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-42-10 adopted.

**RES. NO. R-43-10**

A Resolution awarding a contract for the purchase of a 45' Bucket Truck and a Digger Derrick for the Power System

**Public Comment**

No one came forward to speak for or against Resolution No. R-43-10.

Moved by Commissioner Vogt, seconded by Commissioner Martin, that Resolution No. R-43-10 be adopted. Voice vote, Aye: Terry, Wilson, Martin, Vogt, and Fess. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-43-10 adopted.

**RES. NO. R-44-10**

A Resolution authorizing the City of Piqua to file an application to the State of Ohio to Participate in the Clean Ohio Assistance Fund

**Public Comment**

No one came forward to speak for or against Resolution No. R-44-10.

Moved by Commissioner Terry, seconded by Commissioner Wilson, that Resolution No. R-44-10 be adopted. Voice vote, Aye: Martin, Terry, Vogt, Fess, and Wilson. Nay; None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-44-10 adopted.

**RES. NO. R-45-10**

A Resolution authorizing the City Manager to enter into a lease agreement between the City of Piqua and the Piqua City School District for the lease of Hardman Field

There was discussion of the use of the Baseball Field by the Piqua City Schools, the Legion, and Acme baseball teams. The lease by the Piqua City Schools would cover the use of the baseball field from March 1 to May 31<sup>st</sup>. The City would control the use of the baseball fields after the lease is

completed on May 31<sup>st</sup>. It was stated that it would be possible to lease the field to other associations such as the Legion or Acme after May 31st. Mayor Fess stated the lease fee is only \$1 per year.

**Public Comment**

Brad Boehringer, Mound Street, came forward and asked what happens at the end of the three-month period after the Piqua City Schools are done with the field. Mayor Fess stated the City will look into leasing the field to other associations.

Moved by Commissioner Terry, seconded by Commissioner Wilson, that Resolution No. R-45-10 be adopted. Voice vote, Aye: Martin, Fess, Vogt, Wilson, and Terry. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-45-10 adopted.

**RES. NO. R-46-10**

A Resolution awarding a contract for the Broadway-Phase II Reconstruction Project to Finfrock Construction Co., Inc.

Mayor Fess inquired as to the time frame of the project. City Engineer Amy Havenar stated the project should begin in late April or the first of May and be completed by December 31, 2010. City Manager Enderle stated the street would be closed all summer, but during the Heritage Festival Weekend the plan is to have a temporary coat of pavement down from Washington Avenue to the Johnson Farm.

**Public Comment**

Ben Fugate, Broadway, stated he received a letter with the assessments listed for the curbs, gutters and sidewalks, and asked if there is a possibility of exceeding those amounts. Mr. Fugate also inquired if it would be possible to have the new type of corner curbing that is handicap assessable installed. City Manager Enderle asked Mr. Fugate to speak to City Engineer Amy Havenar concerning the assessments. Mr. Enderle stated the curbs heights are set by Federal Standards and we have to build the streets to Federal Highway Standards since we are utilizing federal funds.

City Engineer Amy Havenar stated all new intersections will have the handicap assessable ramps installed with the red tiles. Ms. Havenar also stated the numbers that were sent out in the assessment letters were pre-estimate for the sidewalk, curb and gutters. The bids came in lower for the sidewalk, curbs and gutters, but went up slightly for the driveway approaches, but overall the assessments should go down for everyone, said Ms. Havenar.

Luke Bolin, Ann Street, inquired as to how payments can be made on the assessments, and the interest rate for assessments.

Finance Director Cynthia Holtzapple explained the choices available for payment of the assessments, and interest rate to be charged for the assessments.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Resolution No. R-46-10 be adopted. Roll call, Aye: Terry, Fess, Wilson, Vogt, and Martin. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-46-10 adopted.

**RES. NO. R-47-10**

A Resolution expressing the intent of the City of Piqua to establish a Stormwater Utility Board

City Manager Enderle stated anyone interested in sitting on the Stormwater Utility Board should contact the City Managers Office or send an email with their information. This is going to be an all citizens' board and we will be looking for five citizens to set on the board, and they will elect their own chairperson. It will be the responsibility of the Board to advise the city administration on operations of the utility, and the commission on setting policies, and will also be an Appeals Board, said City Manager Enderle.

Commissioner Martin asked if any City Commissioners would sit on the Board. City Manager Enderle stated no City Commissioners would sit on the board, only citizens.

Commissioner Wilson suggested there be three homeowners, and two Business/Church/School members on the board. This would balance out the board for the appeals process.

City Manager Enderle stated they would like to have various individuals, and will be looking at appointing citizens who will have the best interest of the City in mind, not just a particular area or group.

#### **Public Comment**

James Cruse, County Road 25-A asked several questions concerning the Stormwater Utility Boards meetings. Mayor Fess stated the Stormwater Utility Board will set their own meeting dates and time.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Resolution No. R-47-10 be adopted. Voice vote, Aye: Martin, Fess, Wilson, Terry, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-47-10 adopted.

#### **RES. NO. R-48-10**

A Resolution authorizing a purchase order to Barrett Paving Materials, Inc. as the primary supplier, and Valley Asphalt Corporation as the secondary supplies of hot mix for the 2010 Street and Alley maintenance program

#### **Public Comment**

No one came forward to speak for or against Resolution No. 48-10.

Moved by Commissioner Martin, seconded by Commissioner Terry, that Resolution No. R-48-10 be adopted. Voice vote. Aye: Terry, Fess, Martin, Vogt, and Wilson. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-48-10 adopted.

#### **Old Business**

##### **Communication From City Manager**

Response to questions raised by Mr. Russ Fashner at the March 16, 2010 Regular City Commission Meeting.

City Manager Enderle read the response letter to Mr. Fashner's questions raised at the March 16, 2010 Regular City Commission Meeting.

(See the enclosed response letter from the City Manager)

#### **Other Business**

Monthly Reports – February 2010

Monthly Reports for the Month of February were accepted.

#### **Public Comments**

Frank Barhorst, Wayne Street, came forward and announced the Miami County YMCA is presenting the First Annual Spring Swing Dance, featuring "One More Time Swing Band" on Friday, May 7 at the Historic Fort Piqua Plaza, starting at 8:00 P.M. Proceeds from the dance will benefit the YMCA Piqua

Senior Center Program and is open to the public. Tickets may be purchased at the YMCA or the YMCA Senior Center for \$20 per person.

Randy Kirchner, Anderson Street, came forward and stated he had a problem with the explanation City Manager Enderle read in response to Russ Fashner's questions from the March 16, 2010 Regular City Commission Meeting. Mr. Kirchner voiced his concerns over several items he felt were not correct. There was discussion of Mr. Kirchner's items in question. Mayor Fess stated she felt the City conducted a thorough investigation, and that it was an extremely unfortunate incident.

Brad Boehringer, Mound Street, voiced his opinion on Russ Fashner's comments, and the response from the City Manager.

Paul Stiefel, Boone Street, came forward asked if it would be possible to put together a group of citizens to conduct a private investigation, and have them report back to the City Commission in two weeks in the public meeting. Mayor Fess asked what that is going to solve. Mr. Stiefel stated if he could not trust a Police Report then don't ever take me to court on a Police Report.

Law Director Wall explained it is within the City Manager's authority to manage the city employment and the employees. He asked for an investigation at the request of the City Commission, and an investigation was done. If you do not agree with the result of the investigation that is one issue, but it would improper to conduct a private investigation on a city procedure or administrative matter.

Dave Comolli, N. College Street came forward to voice his concern and opinion on how the investigation was conducted. Mr. Comolli stated he feels nothing has been settled at this time.

City Manager Enderle stated this is an administrative matter and he would go back and look into it further. It is my responsibility to investigate it and provide a report to the Commission, which I did, the case is closed, said City Manager Enderle.

Mr. Comolli would like to have something posted on city vehicles that no riders are permitted in the vehicles, and that it is an ordinance or an administrative policy. Law Director Wall explained there are certain provisions in the law that would require legal notification, but administrative policy would not.

Russ Fashner, Forest Avenue, thanked the public for their support, and also thanked the city employees for their support. Mr. Fashner stated he felt he was being blasted and further stated he was never in a city vehicle on March 3, 2010 as reported. Mayor Fess stated they would look into it.

Steve Stiefel, Brentwood Avenue, came forward and inquired to the status of the city owned property on E. Ash Street. City Engineer Havenar explained what the time frame on the demolition of the property.

### **Commission Comments**

Commissioner Wilson thanked the Piqua Show Choir "The Company" for their performance.

Commissioner Wilson stated he received a telephone call from a downtown business owner in regards to street sweeping and urged downtown business owners to sweep their sidewalks and curbs. The downtown street sweeping is being done on Thursday and encouraged businesses to clean their sidewalk and curb area the night before the sweeper comes through.

Commissioner Terry state the North Parks Neighborhood Association will conduct a mulch sale at Wilder School on Nicklin Avenue on Saturday, April 10<sup>th</sup>, 2010, 8:00 A.M. – 12:00 P.M. The next North Parks Neighborhood Association Meeting is to be held on Thursday, April 8, at 7:00 P.M. at Wilder School. Commissioner Terry also reminded citizens that Dickens in Ohio is scheduled at the Ft. Piqua Plaza on April 8, 2010 at 7:30 P.M. and is open to the public. Citizens can still vote to have Representative William M. McCulloch nominated to the Statuary Hall in Washington D.C.

Commissioner Terry congratulated the Piqua Show Choir "The Company" and congratulated Joe Speer on his retirement from the Piqua Police Department after thirty-one years. Commissioner Terry inquired if the recycling has been down these past few months. Health & Sanitation Director Amy Welker stated refuse tonnage has been down in January and February partly due to the weather and the economy, even through there was less tonnage the percentage was about the same, said Ms. Welker.

Commissioner Vogt congratulated Joe Speer on his thirty-one years of service to the citizens of Piqua, and to the Piqua Show Choir, stating Piqua is very fortunate to have such talented show choir director.

Commissioner Vogt announced the Parks and Recreation Department will be hosting their 6<sup>th</sup> Annual Car Show. This year the Car Show is going to be held on July 31, 2010 at Fountain Park. The Van Dells are going to perform in the Hance Pavilion at 7:00 P.M. There will be a cash prize of \$500, and a cash drawing of \$100 at the intermission of the Van Dells performance.

Commissioner Martin congratulated the Piqua Show Choir and the director on such a great year. Commissioner Martin also inquired if it would be possible to put a Community Bulletin Board on the Piqua website for community events to be announced such as the fund-raiser for the Senior Center. City Manager Enderle stated he would look into it. Also Commissioner Martin asked if there is a process for mowing the grass in the various city owned properties, such as when new equipment is installed or trees planted they leave enough room to get the big mowers around them. City Manager Enderle stated he would have to take a look at situations he is referring to.

Mayor Fess stated she appreciated the Piqua Show Choir and Tom Westfall for coming to perform, and congratulated them on an outstanding year. Mayor Fess also thanked the many parents and volunteers who work and support Mr. Westfall and the Show Choir all through the year. Mayor Fess sent best wishes to Joe Speer on his retirement.

Moved by Commissioner Vogt, seconded by Commissioner Martin, to adjourn from the Piqua City Commission Meeting at 9:30 P.M. Voice vote, Aye: Martin, Terry, Fess, Vogt, and Wilson. Nay: None. Motion carried unanimously.

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LUCINDA L. FESS, MAYOR

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
REBECCA J. COOL  
CLERK OF COMMISSION



**CITY COMMISSION MEETING REPORT**

*For the Regular Meeting of  
April 6, 2010*

**TO:** City Commission

**FROM:** Fred Enderle, City Manager

**SUBJECT:** Response to Mr. Russ Fashner March 16, 2010 Questions to City Commission

**PURPOSE:** To provide City Commission with City Administration's responses to Mr. Fashner's March 16, 2010 questions.

**RECOMMENDATION:** None. For informational purposes only.

**BACKGROUND:**

In response to the City Commissions' request for a formal response to the comments made by Mr. Russ Fashner at the March 16, 2010 City Commission meeting, I have reviewed the incidents that took place between March 3, 2010 and March 16, 2010 regarding the above referenced matter. My findings follow under the discussion section of this memorandum.

I must start off by indicating that we certainly appreciate everything Mr. Fashner has done to assist in neighborhood and other city projects, such as the roofing of the picnic shelters, installation of the playground equipment at Das Park, etc. We also appreciate that as a citizen of Piqua he has a right to register complaints or concerns over how and when work is done by City employees and/or contractors.

All the questions Mr. Fashner asks are legitimate questions and deserved to be answered.

**DISCUSSION:**

I have broken Mr. Fashner's concerns into two major categories: first, those dealing with the employee complaint and police investigation, and last all the other questions relating to the work issue.

**Investigation**

The facts of the situation are that there were indeed six Street/Parks Department employees working after 3:30 pm on March 3, 2010 repairing the fence along the bicycle path just north of Park Street. At times, Don Seeberger, Asst. Street Superintendent was also present. As Mr. Fashner suspected the hourly employees (Mr. Seeberger is salaried, thus not on overtime)



were in fact working overtime. Mr. Fashner took it upon himself to approach the group to ask them what they were doing and why they were working overtime. That in of itself is not a problem, it is reasonable for a citizen to ask an employee what they are doing or why. However, Mr. Fashner did not ask a simple question or two and leave the employee to their work. He in fact provided an onslaught of questions; most of which they as employees performing the job they were instructed to do were not capable of answering. Working Supervisor Brian Brookhart indicated he told Mr. Fashner what they were doing and why and indicated to Mr. Fashner that anything else would need to be directed to the Street Superintendent. Mr. Fashner ignored Mr. Brookhart's response and continued asking other employees questions. These questions all related to administrative policies or directives that were more appropriately made to the Department Head or City Manager. Mr. Fashner is familiar enough with City operations to know that. Although all the employees present would state that they were not threatened by Mr. Fashner's appearance, he was clearly interfering with them carrying out their assignment.

The City does have a policy prohibiting the transport of non-employees in City vehicles except for official City business. However, that has nothing to do with the fact that Mr. Fashner opened the passenger door on a city vehicle and entered it. The driver states he did not invite Mr. Fashner to get into the truck. The fact here is; no one has the right to enter a vehicle, whether a taxpayer is entering a city vehicle or a private citizen entering another person's vehicle, without being invited to do so. By doing so Mr. Fashner opened himself to the potential for a charge of criminal conduct.

Regarding Mr. Fashner's question of why the Police complaint was not filed until seven days later, Street Superintendent Doug Harter explains that it was not until March 10, 2010 when he, Don Seeberger, Israel Carnes and Brian Brookhart were meeting to discuss various issues that Brian informed the group that Mr. Fashner entered a City vehicle on March 3, 2010 while they were working on the bike path. Brian informed Doug that this incident "scared Doug Cantrell (the driver) to death." Doug Harter called Amy Havenar, his immediate supervisor, the next morning and informed her of the situation and asked what, if anything, should be done. Amy advised him to contact Stacy Wall to see if we should pursue this any further. Doug called Stacy and she informed him that a police report should be filed.

Mr. Fashner also questions the appropriateness in which the complaint was handled. Specifically; he questions if the "chain of command" was followed. This complaint was handled correctly in every aspect. The working supervisor reported to Doug Harter, Street Superintendent who reported to Amy Havenar, City Engineer (his department head), who told Doug to call the Law Director. It is not unusual for the Law Director, who is also the City Prosecutor, to receive calls regarding complaints of activity either from a citizen or in this case an employee. That complaint was directed in the right direction. Since this complaint was derived from a city employee where there were potential liability and safety issues, as well as what initially appeared as criminal conduct, seeking direction from the Law Director is proper. The Law Director spoke to the police department regarding an investigation. The information she received was that there were city employees on a job site where Mr. Fashner jumped into the city truck, without invitation or privilege to do so and frightened the city workers. These facts certainly warranted an investigation, as disorderly conduct certainly fit if those facts were true. The investigating police officer let the Law Director know after his investigation (which she had no part of other than requesting an officer look into the matter) that in his opinion there was no criminal offense. After hearing the evidence, the Law

Director concurred. That was the end of the discussion other than she explained to Doug Harter why no criminal charges would be filed. As Law Director (and Prosecutor) Ms. Wall can file charges or can recommend an investigation be done. In this case, she believed an investigation was warranted given the seriousness of the allegations. Again, within the realm of the Law Director/Prosecutor's duties, she reviewed the statements given and agreed no charges should be filed.

As far as Mr. Fashner's question: "What is the police department's standard procedure in these cases?" The Police Department responds to any complaint that alleges potential violation of the criminal law. There is no reporting party more credible to them than the City Law Director and Prosecutor. It is not unusual for her to ask them to investigate an allegation of criminal behavior. When they receive such a request, they hear the allegation and determine who should be interviewed as a witness. The Police Department, due to City liability and safety issues, as well as because of their experience in conducting investigations, also responds to other city incidents. The most common example is private property damage and/or accident reports. In instances where the Law Director/Prosecutor wants an issue/incident investigated, she will contact the Police Chief or a Deputy Chief in his absence. In this case she provided the general allegations and the names of those involved, and the case was assigned by Deputy Chief Grove to an officer based on the police protocols related to an officer's geographical assignment, current workload, and other factors. When the department gets a case like this it really isn't too important to them as to exactly what the Law Director understood to be the facts; she had talked to someone and determined an investigation was in order. That is sufficient for the police department to investigate. The Law Director goes through police management because it is their job to decide *who* should conduct the investigation and performance-related issues as to *how* it is conducted. Deputy Chief Grove sent an officer out to do an investigation per standard procedures.

When the officer felt that he had gathered all the victim information and it lacked probable cause for any criminal charge, he contacted the Law Director. When she was presented with all the facts, she and the officer agreed no crime had been committed and the department closed their investigation after a few efforts to contact the alleged offender.

Chief Jamison has explained to Mr. Fashner some of the details about the title of our report.

The officer has some discretion in this area. The other alternative would have been carrying this as an unfounded crime. When the allegations were already third-hand when they came to them, the department tends to avoid this. If the officer decided to carry it as, say, Disorderly Conduct – it would have been closed as "unfounded" and Mr. Fashner would have been listed as a "suspect." The department does not like to see anyone listed in our records as a suspect without an interview. Closing it as a non-criminal "suspicious" case was an expedient way for them to dispose of this as a police matter. Chief Jamison indicates that from previous experience that closing it as "unfounded" might be the most technically correct means, but it tends to leave both sides offended. The person that reports tends to think that disposition means they never should have reported their concern. The person who was investigated is offended that they are listed as a suspect when they didn't commit a crime. When Mr. Fashner was asked if he would like to be contacted by the investigating officer so his statement could be added to our record; he said enough time had already been wasted on this and he did not need to do that.

Summarizing the above complaint I find the conduct of all city employees in this matter proper. In fact was I to admonish any employee it would be for not calling the police

immediately upon Mr. Fashner climbing into the truck. The employee should have exited the vehicle and contacted the police immediately. In addition, after Mr. Fashner's initial questions of what they were doing and who directed them to do it, the employees should have informed Mr. Fashner that they were doing as directed and that he would have to contact their supervisor with any further questions, returned to the work at hand and when Mr. Fashner persisted called their Supervisor. Regarding entering the vehicle, whether the driver knew Mr. Fashner or not, he has no idea why he is climbing to his truck or what his intentions were. Being a taxpayer, etc. does not entitle Mr. Fashner to any special consideration. He is and will continue to be treated with the same respect and consideration as any other citizen and all citizens will be held to the same standard of conduct. We will be happy to answer his questions and take his suggestions; however, they must be presented in the proper manner. We will not tolerate anyone interfering with employees doing their job; and we will investigate allegations, employee or citizen, of wrong doing.

Could this whole affair have been handled differently? It most certainly could have; however, I believe it started with the manner in which Mr. Fashner handle his concern for what the City was doing. I encourage Mr. Fashner to direct his concerns in the future to the Streets Superintendent, City Engineer, City Manager or City Commissioner and to not disturb the employees working. .

Other Questions:

***Why was the fence taken down?*** The portion of the fence between Echo Lake & Park Ave. was taken down because the existing posts were rotted and we were going to replace them. Other fencing along the path has or will be taken down but not replaced. This portion was deemed important because of the pitch of the slope adjacent to the path.

***Who ordered it taken down?*** The Street Dept. Superintendent issued this request due to the poor condition of the posts.

***Was overtime paid?*** Yes.

***How do I get that money back as a citizen if it was a poor choice?*** This was a judgment call made by the Streets Superintendent based on the complaints he received. In review I, as City Manager, can say I would have liked him to fill the holes immediately using less personnel and time, and scheduled the rest of the work on regular hours. However, I cannot say he was wrong. He as the person responsible, used his best judgment based on the information at hand and made a decision. I cannot fault him for that. I would rather a supervisor err on the side of doing something to address a concern, than to leave something go they should have addressed, and provide post-incident coaching on how the situation was handled and review other options available.

***And if so what was so important?*** Two complaints were received that day, one from the Law Director and the other through the E-Gov Action Line. Once the complaint was received and the department was made aware of it, it was the Superintendent's feeling they had an obligation to try and alleviate the problem and to prevent any future accidents/incidents from occurring.

***Why were the holes not filled when it was taken down?*** The Department was going to reuse the existing holes to install the new fence posts. However, this happened the same time we

received the large of amount of snowfall, therefore, crews were needed to plow the roadways and we did not immediately get back to the fence repairs.

***Why was the section not closed if it was dangerous?*** The missing fence was not considered a dangerous situation in of itself. Also the holes were off the path and close to the edge of the slope; it was not likely someone would wonder that close to the edge. Finally, due to the weather conditions, the entire bike path could have been considered unusable and staff felt they had time to get back to it within a short period of time to get the fence back up.

***Why not fix just what was bad?*** The majority of the posts were rotted and it was decided to install all new posts rather than leave a few and have to go back and replace them in the future. They were all installed at the same time when the path was originally constructed.

***...would you want this in your front yard? Or pay me to do this for you?*** For the type of fencing (split rail) the repairs are acceptable workmanship. The soil around the posts has been tamped down and the fence is as secure as split rail fencing can be. The intent was to get the fence up and securely in place. Once weather is more conducive to the type of work a crew will go back and will do final finishes.

***Are we putting the entire fence back?*** No. The only portion of the fence that will be put back is this portion between Echo Lake Drive and Park Ave.

***Was OUPS called before holes were drilled?*** No. The City reutilized the original hole locations. These would have been OUPS when the posts were originally installed. We just had to clean them out because they had collapsed with all of the snow that we received during that timeframe.

### **CONCLUSION:**

While Mr. Fashner, or any citizen for that matter, has a right to register complaints or concerns over how and when work is done by City employees and/or contractors. There is a proper manner for registering those complaints or issues. Interfering with the work of employees, at any time, is not the proper way.

We want all our employees to be customer friendly and responsive. Stopping to ask them a question or two about what they are doing is acceptable and we hope they will provide a courteous reply. However, the employees are assigned to complete certain tasks, and can tell

folks what they are doing and why, but beyond that it gets into an area of work or policy direction provided by their supervisors and they cannot answer those questions. These questions should be directed to the Streets Supervisor, City Engineer or City Manager as the parties responsible for the duties of the Streets Department employees. It is also proper for citizens to address their questions to City Commissioners for their information and/or inquiry to the department head or the City Manager.

The Street Superintendent, City Engineer or I would be happy to discuss any questions or concerns with anyone having an issue or concern with City services.