CAMILLE L. BAKER
City of Greenville Law Director

100 Public Square
Greenville, OH 45331
(937) 548-1314

June 11, 2013

VIA CERTIFIED AND REGULAR U.S. MAIL

Chad Ackley
615 E. Fourth St.
Greenville, OH 45331

RE: Violation of Greenville City Residency Restrictions Ordinance

Dear Mr. Ackley,

I have been notified by the Greenville City Police Department that you have established residency at 615 E. Fourth St., Greenville. I have been further notified that you were convicted on September 26, 2012 of Gross Sexual Imposition and subsequently classified as a Tier II Sex Offender.

Your residency is located within 1500 feet of the Emmitt B. Smith Park and East School which is a violation of Greenville City Ordinance 11-10 that became effective on February 11, 2011. In order to avoid further legal action by the City of Greenville it will be necessary for you to move to an alternate residence that meets the City's residency requirements.

If you should have any questions regarding the above, please do not hesitate to contact me.

Sincerely,

Camille L. Baker
Greenville City Law Director

cc: Dr. John Graham, 615 E. Fourth St., Greenville, OH 45331
Curt Garrison, Safety/Service Director

Early Bird

City could face civil rights lawsuit if ordinance enforced

9/29/2013

BY BOB ROBINSON
ASSOC. EDITOR

GREENVILLE – "If we brought action under this ordinance they would counter-sue."

According to Greenville City Law Director Camille L. Baker, Greenville resident John Graham and his attorney, Jeff Slyman, Vandalia, made this clear to the city.

Baker said she wanted to make sure if someone actually did fall under this ordinance, would it be enforceable?

At the time City Ordinance 11-10 was passed, Baker understood the city's insurance company had told them it wasn't enforceable, that they would not cover it and if there was a judgment against the city, they would not pay it. The city set aside $60,000.

"That might pay for one day in court," Baker added. Since she didn't become law director until nine months after the fact, she said she wanted to find out exactly if the ordinance could be enforced. The city council and city administrative team sought the opinion of Pickrel, Schaeffer & Ebeling of Dayton, municipal law specialists.

Their 10-page opinion concluded the ordinance could not be enforced.

Baker said it is difficult to determine the amount of money for which the city might be liable if challenged.

"If they could show we knew the ordinance could not be enforced they could go after punitive damages." If Baker was to file a complaint in Common Pleas court, the other party could counter-file in state court, then file a 1983 Civil Rights action in federal court.

"We'd be dealing with two courts at the same time," she said. "There's a cap on pain and suffering damages; there's no cap on civil rights damages.

"To put the city in that kind of situation would be… well… close to criminal."

The city's ordinance expanded on the Ohio Revised Code requiring sex offenders to reside outside of a 1,000 foot radius from a school. Greenville's ordinance expanded the zone to 1,500 feet and included schools, playgrounds, city parks, libraries and day care centers.

It allowed few areas left in Greenville where a sex offender falling under the ordinance could live. However neither the Ohio Revised Code nor the city ordinance restricted a sex offender from being in or near any of these locations. Just having a residence there.

Baker said there were rumblings shortly after she took office that the ordinance wasn't being enforced.

"At the time no one was living in violation of the ordinance as all were residents prior to the ordinance being passed," Baker added. "Since then there were two people in Greenville who fit the parameters; the offense was committed after the ordinance was passed. One has since left."

Greenville's sex offender ordinance was passed in 2011 after debate and public pressure over residences in Greenville where Graham allowed sex offenders to live in a controlled environment. Concerned residents in the impacted neighborhoods noted both public safety and loss of property value.

"The question isn't do we want one (a sex offender law) on the books?" Baker said. "The question is is this one enforceable?

"As long as there is the Ohio Revised Code, we have to have a reason for expanding on it. We didn't even speak to that."

Baker said since she now has an opinion that this ordinance cannot be enforced, she can't bring a complaint on it.

COUNCIL MEETING
REGULAR SESSION

October 15, 2013

The Council of the City of Greenville met in regular session at 7:30 P.M. in the Council Room, Municipal Building, Greenville, Ohio. The meeting was called to Order by Council President Burkett with the following members present at roll call: Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

APPROVAL OF MINUETS: The minutes from the 10-1-13 meeting were approved as submitted.

APPROVAL OF AGENDA:
Regarding the Agenda under Ordinances and Resolutions: item #4, a Supplemental Appropriation, was added. Schmidt made a motion to accept the Agenda as amended and the motion passed as follows: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

PUBLIC HEARINGS
None

ADMINISTRATIVE REPORTS
Mayor Bowers invited representatives from Wayne Industries who participated in City beautification and clean-up activities into Council Chambers for a certificate of award presentation and thanked the following individuals for their effort in planting and maintaining flower beds and handling liter removal along Broadway and in the City Parks: Richard Headley, Darlene Bowers, Mark Carr, Jack Shumaker, Kenny Ankenbrandt, Dave Murphy, Ryan Shiverdecker, Sam Ploch, Angie Gambrel, Emily Dias, Terry Oda, Terry Resor, Nicole Hoffman, Craig House, Crystal Mead, Mike Shoenleben, Sue Kesler, Jeff Hartke. Bowers stated these individuals consider it a privilege to help the City and willingly and joyfully do this work to beautify the City.
The Mayor stated last week he attended an Economic Development conference in Philadelphia and that a written report would be prepared. Bowers stated we are on the right track to be successful in Economic Development with the plans to build a new school and the Industrial Park.
Bowers concluded with the reminder that Trick or Treat will be held on Sunday 10-27-13 from 2:00 to 4:00 P.M.

Safety/Service Director Curt Garrison began by explaining the Supplemental Appropriation added to the agenda. This Ordinance pertains to the tree replacement program implemented in the City Park last year. These funds are donations from citizens and will be used to purchase and plant trees to replace those removed last year which were damaged or dying.

Garrison stated he has been contacted by the GFD regarding a rash of arson fires in the community. Garrison urged all citizens to get involved in the Community Watch Program. Garrison stated residents should be on the look out and all suspicious activity should be reported to the police.
Garrison reported the GPD continues to participate in Spillman Training, which involves the software program.

Law Director Camille Baker stated a change in office policy that will have the various Department heads and the Safety Service Director submit legislation to be prepared for City Council by noon on the Thursday prior to each Council Meeting. Baker stated this would allow Clerk Shank to email a copy of legislation to Council members prior to the meetings and will then give each council member an opportunity to fully review legislation and address any questions to the proper Department head prior to voting.

Auditor Roxanne Willman stated all Departments, including the Auditor's Office, are working on the 2014 budget and have a goal to have this ready prior to the end of this year.
Willman stated that tonight's Transfer Ordinance includes an addition regarding the IT Dept. transfer of $2,500.00 from New Equipment to Office Supplies.

COMMITTEE REPORTS
A report from the Miscellaneous Affairs and Priority Needs Committee regarding Fracking, Waste Disposal and preparation of legislation was read as submitted. Tryon asked Committee Chair Godwin to explain the comment "no legislation at this time". Godwin stated the issue is going to the Ohio Supreme Court and that the State would override any local legislation. Baumgardner added that we have no wells and our soil is not the right type so we will have no fracking. Godwin however, stated we do have the right soil type for Waste Wells. Burkett asked Law Director Baker if we could ban Fracking and Waste Wells in the city limits. Baker replied that current state legislation takes this opportunity away from cities, but added some zoning legislation might have an effect on the activity. Tryon made a motion to accept the report as read. The motion passed as follows: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

ORDINANCES AND RESOLUTIONS

13-97 Ord. to rescind Ord. 11-10

AN ORDINANCE TO RESCIND ORDINANCE NO. 11-10 AS IT PERTAINED TO RESIDENCY RESTRICTIONS RELATING TO SEX OFFENDERS, CHILD-VICTIM OFFENDERS, TIER I, II AND III SEX OFFENDERS/CHILD VICTIM OFFENDERS AND DECLALRING AN EMERGENCY. This legislation was given the first reading on September 17, 2013 and given the second reading on October 1, 2013. The Clerk gave the third reading of this legislation title. The Clerk read a summary of the Ordinance. Oliver moved to accept the emergency clause and this motion passed with the following vote: Yea-Tryon, Godwin, Harrison, Oliver, Rogers and Schmidt. Nay-Baumgardner. Baumgardner stated that if this Ordinance does not pass he would hope this issue will go to Committee for further study. Oliver agreed with Baumgardner and

stated that at this time if we study and correct the current Ordinance there would be nothing left except the current ORC guidelines. Oliver moved to adopt the Ordinance and the Ordinance was adopted by the following vote: Yea-Tryon, Godwin, Harrison, Oliver, Rogers and Schmidt. Nay-Baumgardner.

13-98 Res for bids & contract various materials

A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC SAFETY/SERVICE TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACTS FOR THE PURCHASE OF AGGREGATE MATERIALS, BITUMINOUS MATERIALS; WATER CHEMICALS; FUELING SERVICES; WATER TREATMENT PLANT LIME SLUDGE REMOVAL; TRANSIT SERVICES; SOLID WASTE REMOVAL AND DISPOSAL FOR 2014 CONTRACTS AND DECLARING AN EMERGENCY was given the first reading by title only. The Clerk read a summary of the Resolution. Tryon moved to suspend the rules and give the Resolution the second and third readings by title only. Roll call was taken and the motion passed as follows: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt. The Resolution was given second and third readings by title only. Baumgardner moved to adopt the emergency clause and this clause was adopted by the following vote: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt. Harrison moved to adopt the Resolution and the Resolution as adopted by the following vote: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

13-99 Transfer Ord.

AN ORDINANCE FOR THE TRANSFER OF FUNDS AMONG THE APPROPRIATIONS OF THE VARIOUS FUNDS OF THE CITY OF GREEENVILLE was given the first reading by title only. The Clerk read a summary of the Ordinance. Rogers moved to suspend the rules and give the Ordinance the second and third readings by title only. Roll call was taken and the motion passed as follows: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt. The Ordinance was given second and third readings by title only. Oliver moved to adopt the Ordinance and the Ordinance was adopted by the following vote: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

13-100 Supplemental Appropriations

AN ORDINANCE TO MAKE ADDITIONAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF GREENVILLE, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2013 was given the first reading by title only. Godwin moved to suspend the rules and give the Ordinance the second and third reading by title only. Roll call was taken and the motion passed as follows: Yea-Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt. The Ordinance was given the second and third reading by title only. Oliver moved to adopt the Ordinance and the Ordinance was adopted by the following vote: Yea-Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

OLD BUSINESS
None

NEW BUSINESS
The Clerk acknowledged the receipt of a notice from the Ohio Division of Liquor Control of an Application for Change of Corporate Stock Ownership regarding liquor license Permit Number 66036540150 issued to Ottawa Oil Co. Inc. DBA Greenville Party Mart Suite A & B 1525 Wagner Ave. Also received was a letter dated 10-2-13 from Police Chief Butts regarding this issue and stating "A background check was not requested". Baumgardner made a motion to go on record as not requesting a hearing on this change. The motion passed with the following vote: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

COMMUNICATIONS
The Clerk acknowledged receipt and distribution of the following:
GPD CAD call response time log for September
Report from GTS September
September Street Dept. report
Information from Ohio Division of Liquor Control

CALL OF COUNCIL
Tryon stated he agrees with the Mayor regarding Economic Development for our community. Tryon stated the Greenville High School Career Tech Program is now offering a Nursing and Welding Program for adults. Tryon reminded all to vote in the upcoming election. Tryon thanked all those involved with Wayne Industries and their contribution to the beautification of the City.

Baumgardner also thanked those involved with Wayne Industries and their contribution to the beautification of the City. Baumgardner received a citizen inquiry regarding the plans for the abandoned gas station at the corner of Ohio and Martin St. Bowers reported discussions are in progress. Baumgardner reminded everyone of the upcoming Utility Committee meeting on Friday 10-18-13 at 8:00 A.M. to discuss refuse (trash) removal. Baumgardner concluded by offering condolences to the family of Greg Trent who recently passed away.

Godwin also thanked those involved with Wayne Industries and their contribution to the beautification of the city.

Harrison also thanked those involved with Wayne Industries and their contribution to the beautification of the city. Harrison said he was saddened to rescind the Ordinance regarding sexual predators. Harrison urged all citizens to go to Columbus to change state laws on this issue. Harrison said he did not like rescinding this Ordinance but we cannot open ourselves and the City up to a lawsuit.

Oliver stated his agreement with Harrison in that many problems begin with the State Laws.

Rogers
Passed

Schmidt also thanked those involved with Wayne Industries and their contribution to the beautification of the city.

At 8:19 PM Tryon moved to rise to executive session to discuss negotiations under section O.R.C. 121.22 (G) (4). The motion passed with the following vote: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

Burkett declared the executive session concluded at 9:02 P.M.

The meeting reconvened in open session.

Rogers moved to adjourn and the motion passed as follows: Yea- Tryon, Baumgardner, Godwin, Harrison, Oliver, Rogers and Schmidt.

The meeting was adjourned at 9:03 PM.

Clerk of Council

Council President