

CITY COUNCIL MINUTES
September 3, 2013

I. ROLL CALL & ORDERING OF AGENDA

President Mike Buytendyk called the regular meeting of Wooster City Council to order at 7:30 p.m. in council chambers. The following members were present: Jon Ansel, Mark Cavin, Barbara Knapic, Craig Sanders, Jeff Steiner, and Jon Ulbright. David Silvestri was absent.

City Administration present: Mayor Bob Breneman, Director of Administration Joel Montgomery, Finance Director Andrei Dordea, and Law Director Dick Benson.

Mr. Buytendyk noted that the agenda would be altered from its original order in that council would consider Resolution No. 2013-77 before Resolution No. 2013-76. Also, should council members approve, an executive session would be held between the readings of the two pieces of legislation.

II. APPROVAL OF MINUTES

Mr. Steiner moved, seconded by Ms. Knapic to approve the August 19, 2013 meeting minutes. Upon voice vote, the motion carried unanimously.

III. COMMUNICATIONS FROM MAYOR/ADMINISTRATION

Mayor Breneman addressed council members and the audience regarding a situation in which a man, Mr. Dennis Briggs, was arrested over the weekend for an incident involving City of Wooster police officers. The man's vehicle was still impounded as of the time of the council meeting; however, the man was released from jail on bond. Mr. Breneman stated that at least eight local service agencies had contacted Mr. Briggs with offers of food, shelter, and financial assistance. Mr. Briggs has been offered at least three jobs, and has turned down all offers of assistance.

Mr. Breneman stated that city managers have been instructed to provide their preliminary budget requests to city administration by the second week of September. Mr. Breneman also noted that several paving projects will be starting soon: Burbank Road, Liberty Street Extension, and Oak Hill Road.

Mr. Breneman addressed the audience to state that Mr. Montgomery has worked to obtain information and answers to the questions that were posed at the previous council meeting regarding the proposal to construct a communications tower on the former Layton School property. Mr. Breneman informed audience members that the legislation can be left on second reading to allow more time for public input and council consideration.

IV. PETITIONS/COMMUNICATIONS FROM PUBLIC

The following members of the audience spoke: Richard Silver, Kurtz St. (2013-36); Jay Henthorne, 1727 Burbank Rd. (2013-36); Linda Houston, 1823 Burbank Rd. (2013-36); Barbara Weinstein, 134 Reed Rd. (2013-36); Jimmy Pooler, 1814 Burbank Rd. (2013-36); Mary Whitman, 1836 Burbank Rd., (2013-36); Greg Gehris, 341 N. Grant St. (2013-38); Dennis Vitaro, 2846 Woodside Dr. (2013-36); Dave Cannon, 1770 Burbank Rd. (2013-36); and Verity Cannon, 1770 Burbank Rd. (2013-36).

V. COMMITTEE REPORTS; PUBLIC HEARINGS

Mr. Steiner reported on the Safety Committee's work session regarding the council of governments that was held earlier in the evening. Mr. Steiner stated that the committee discussed some of the reasons for forming the council of governments with the city of Ashland, Ohio and had good discussion on the goals of the council and how the agreement would be formed to provide dispatching services. Mr. Steiner also stated that he is interested in input from other council members as to other items that might be considered for inserting into the agreement and bylaws of the council of governments.

Ms. Knapic conducted a public hearing The zoning of .661 acres (being petitioned for annexation) to a R-2 (Single Family Residential) District for property located on the east side of Melrose Drive, north of its intersection with

Portage Road. Morris Stutzman, Esq., agent for the petitioner, addressed council and answered council members' questions.

VI. OLD BUSINESS

1. Second Reading – ORDINANCE NO. 2013-27 AN ORDINANCE ACCEPTING APPLICATION FOR THE ANNEXATION OF TERRITORY LOCATED ON THE EAST SIDE OF MELROSE DRIVE, NORTH OF ITS INTERSECTION WITH PORTAGE ROAD, AND CONTIGUOUS TO THE CORPORATION LIMITS (Morris Stutzman, Esq., Agent for Petitioners Bruce and Jodi Steiner) (Knapic)

Ms. Knapic stated that this ordinance relates to the public hearing that was just conducted and that it is also related to Ordinance 2013-29, which will zone the property. This ordinance is to accept the application for annexation.

Ms. Knapic moved, seconded by Mr. Steiner, to suspend the rules and place on third and final reading. Upon roll call, motion carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

Ms. Knapic moved, seconded by Mr. Ansel, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

2. Second Reading – ORDINANCE NO. 2013-29 AN ORDINANCE AMENDING TITLE ELEVEN, ZONING, OF THE CODIFIED ORDINANCES OF THE CITY OF WOOSTER, OHIO, SO AS TO ZONE NEWLY-ANNEXED LAND (0.661 ACRES) TO AN R-2 (SINGLE FAMILY RESIDENTIAL) DISTRICT FOR PROPERTY LOCATED ON THE EAST SIDE OF MELROSE DRIVE, NORTH OF ITS INTERSECTION WITH PORTAGE ROAD (Knapic)

Ms. Knapic reiterated that this is companion legislation to Ordinance No. 2013-27 and that it would zone that property to an R-2 designation.

Ms. Knapic moved, seconded by Mr. Sanders, to suspend the rules and place on third and final reading. Upon roll call, motion carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

Ms. Knapic moved, seconded by Mr. Ulbright, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

3. Second Reading – ORDINANCE NO. 2013-36 AN ORDINANCE AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A TECHNICAL SERVICES CONTRACT WITH A QUALIFIED VENDOR FOR THE CONSTRUCTION AND MAINTENANCE OF A COMMUNICATIONS TOWER AND RELATED FACILITIES ON CITY-OWNED PROPERTY; AND DECLARING AN EMERGENCY (Cavin)

Mr. Cavin stated that he planned to leave this legislation on second reading because he wanted to hear more from city administration regarding the concerns that were raised at the last meeting. Mr. Cavin also stated that council members received information from Mr. Montgomery regarding safety issues and property value assertions that were put forward at the previous council meeting, and he wanted the public to have an opportunity to hear that information. Mr. Cavin asked Mr. Montgomery to share with the public his findings on those questions. Mr. Montgomery stated that neither the World Health Organization nor the American Cancer Society report any links between communications towers and cancer occurrence. Secondly, Mr. Montgomery spoke to the manufacturer regarding the safety of the towers and how they would withstand high winds or earthquakes. The poles are designed to fall down upon themselves in those types of events. Mr. Montgomery reported that he had also spoken to a local real estate agent regarding the effect of the tower on property values. The agent responded that the communications tower would not affect property value any more than a water tower would affect it. The agent also stated that he

was not aware of any adverse effects on the property values of homeowners who live near the water tower at the end of Christmas Run Boulevard. The presence of the water tower or communications tower would be more of a preference of the person buying the house and allowed that it is a legitimate concern. Regarding concerns raised about negative impacts on implanted medical devices such as heart defibrillators, Mr. Montgomery contacted the manufacturer of those devices. The manufacturer stated that unless the person was standing right next to the transmitting unit itself (which would be 200 feet in the air on the tower), then there would be no issues with interference in the medical devices. It was also noted that the current antennae located on the Winter Street tower are right next to the hospital and there have been no issues with medical equipment. As to the funding questions that were raised, the city receives approximately \$53,000 per year in rental income from the cell phone service providers, which is placed in to the water fund. Mr. Montgomery also stated that the contract the city is seeking to enter would entail the contractor constructing and maintaining the tower while the city would retain ownership as well as rights to remove it. Mr. Montgomery also responded to the question about whether or not the city purchased the property without knowing what they were going to do with it. The publicly declared intent at the time of the purchase in March of 2013 was that the city planned to use the property for constructing a water tower in five to 10 years. Mr. Montgomery stated that it is still the intent of the city to place a water tower on that property. Wooster Community Hospital has contributed \$1.5 million towards tearing down the Winter Street tower and constructing the new tower in the future. Mr. Montgomery responded to a resident suggestion to place the tower on the property at the corner of Friendsville and Burbank Roads that has been reserved for a new fire station. Mr. Montgomery stated that there is very likely not enough room on that piece of land for the tower, it is also a residential neighborhood, and it would not work for the city's telemetry system. Other suggestions of placing the tower on hospital-owned property were addressed. Mr. Montgomery indicated that the proximity of the current Winter Street tower is a hazard for the Life Flight helicopters that fly in and out and placing a communications tower on any of the hospital property would not eliminate that safety issue.

Mr. Buytendyk asked about the noise and light pollution concern that was raised by a resident. Mr. Montgomery said that the manufacturers he has spoken with would both fence and screen the bottom of the tower and would do so to the city's specifications. Mr. Montgomery also addressed the public comment about locating the police station on the property. He stated that the city is investigating every option to ensure that city residents are receiving the best services possible in the most cost effective way. He confirmed that the city is exploring whether it would be feasible or not to move the police station to the property. He emphasized there are no current plans to move forward with that idea as the city is only at the investigating stage and that is also why nothing has been publicly stated. An audience member requested that the city contact more experts to obtain opinions regarding property values, safety, etc.

Mr. Ulbright brought up a question posed by an audience member as to whether or not this tower would be built to the minimum (90mph wind speed) industry standards or if it would be built to a higher standard that could withstand greater winds. Mr. Montgomery said he could find out from the manufacturer if it would be possible to build the tower above minimum standards and the cost difference. Mr. Ulbright went on to emphasize that members of a community sometimes need to make sacrifices and that it is not intentional to target any particular neighborhood, but to look at where is the best location for a piece of infrastructure for the community as a whole. Mr. Ulbright also stated he thought it would be good to consult additional realtors on the question of property value. He also emphasized that council is there to listen to the residents' concerns, and if and when council votes on this measure, residents can be assured that council members considered those concerns.

Ms. Knapic also assured the audience that their concerns are heard, considered and that council is happy to review any information that residents might wish to share with council members. Ms. Knapic thanked Mr. Pooler for putting together a map of potential sites for the communications tower. She noted that at least three of the locations are on hospital property, which would still be a hazard for the life flight helicopter and council could not force the hospital to accept locating a tower there.

Mr. Ansel reiterated the Ms. Knapic's and Mr. Ulbright's comments in that he takes seriously the input from the community on matters that come before council. Mr. Ansel stated that the Layton School property, from an

engineering perspective, is one of the best locations for the tower as it pertains to city services. Mr. Ansel stated that he recognizes that the residents perceive that the tower could negatively impact their quality of life. As for safety, Mr. Ansel said that he does not believe a water tower or cell towers should be a source of concern, as there are many water towers and communications towers in the city that have survived extreme weather. Mr. Ansel stated that telephone poles and electric cables posed a more serious threat in severe weather than the bigger structures. Mr. Ansel acknowledged that most people would not want a water tower in their back yard; however, the property was purchased to serve the best interests of the entire city. He reiterated that, if built, the communications tower and water towers would be constructed to the proper safety standards along with proper fencing. Mr. Ansel also said that there could be discussion of a potential dispatch center in the former Layton School building. He emphasized that no decisions whatsoever have been made on whether the former school building will be used for that purpose. Mr. Ansel stated that council members are elected to provide better services at reduced costs to the citizens and taxpayers.

Mr. Buytendyk declared that this legislation has had sufficient discussion for its second reading and that council would move on to the next item on the agenda.

4. Second Reading – RESOLUTION NO. 2013-71 A RESOLUTION AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH OHM ADVISORS OF GAHANNA, OHIO FOR COMPREHENSIVE PLANNING SERVICES (Ansel)

Mr. Ansel stated that this resolution is to authorize a contract with OHM to begin the charter-mandated comprehensive plan and review. For budget reasons, Mr. Ansel noted that the city has deferred the plan review process and it is eighteen months overdue. He also stated that OHM was the successful firm after the city conducted a competitive review process and that he would like to bring the resolution to a vote.

Mr. Ansel moved, seconded by Ms. Knapic, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

VII. NEW BUSINESS

1. First Reading – ORDINANCE NO. 2013-37 AN ORDINANCE AMENDING CHAPTER 155, DESIGN AND REVIEW BOARD, OF THE CODIFIED ORDINANCES OF THE CITY OF WOOSTER, OHIO, BY THE ADOPTION OF VARIOUS TEXT AMENDMENTS (Knapic)

Ms. Knapic informed council that this legislation concerns several amendments proposed by the Design and Review Board. Mr. Dutton then explained that the much of the changes are suggested as a result of recommendations from the Ohio Historic Preservation Office (OHPO). Compliance with those recommendations would allow the city to apply for certain grants. Mr. Dutton briefly went over the suggested changes, and, at Mr. Ulbright's request, explained some of the numbering changes, which are designations from OHPO. Mr. Dutton explained a new addition to the chapter, which is the process of obtaining a certificate of appropriateness. Ms. Knapic asked if these applied primarily to the downtown area as it contains most of the city's historic buildings. Mr. Dutton confirmed that was the case, adding that the downtown and the College of Wooster area also contains some historic buildings. Mr. Ulbright asked if the certificate of appropriateness would create a fee structure of some type. Mr. Dutton replied that there is no fee for an application to the Design and Review Board nor for the certificate of appropriateness. Mr. Ulbright asked for confirmation that most of the recommended changes are primarily to verbiage and that nothing is materially changing. Mr. Dutton responded that much of the strike-through portions regarding designation of a landmark or landmark district are re-worded elsewhere in the document to comply with the OHPO process. Ms. Knapic asked if these language changes make the process more precise. Mr. Dutton confirmed that the recommended changes give a better description of the step-by-step process involved with seeking certification of an historic building or landmark. Ms. Knapic advised that she would like to leave this

legislation on first reading due to the number of changes that have been proposed and she would like to allow more time for raising questions if any should arise.

2. First Reading – ORDINANCE NO. 2013-38 AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR THE CREATION OF THE WOOSTER-ASHLAND REGIONAL COUNCIL OF GOVERNMENTS, AND DECLARING AN EMERGENCY (Steiner)

Mr. Steiner stated that this legislation was the subject of the Safety Committee meeting held earlier in the evening. He noted that council members all have a copy of the proposed bylaws and governing articles for the agreement between the city of Ashland and the city of Wooster. He noted that council members also received a copy of the presentation given by Mr. Adam Miller regarding how the council of governments works and the flexibility it provides for participating members. Mr. Steiner asked council members to look over those documents and to direct any questions to either him or to Mr. Benson. Mr. Ansel complimented Mr. Steiner on a very productive meeting and Mr. Miller for an enlightening overview of the potential agreement for the council of governments. Mr. Buytendyk added that he was glad to learn of the additional funding possibilities that are available for the services that the city and council are contemplating, which would not otherwise be available. Mayor Breneman added that a regional dispatch center is something that the city has been considering for several years and is glad that the city has come to a place at which it can be discussed as a possibility. The ordinance was left of first reading.

3. First Reading – RESOLUTION NO. 2013-73 A RESOLUTION AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ADVERTISE ACCORDING TO LAW AND ENTER INTO A CONTRACT WITH THE LOWEST AND BEST BIDDER FOR THE REPLACEMENT OF THE WATER LINE SERVING NORTH STREET (Sanders)

Mr. Sanders informed council that the North Street water line has a history of breaks and needs to be replaced. The two inch line is to be replaced with an eight inch line. Mr. Sanders stated that the city would like to complete the project as soon as possible to have it done before the resurfacing projects on Larwill and Market Streets.

Mr. Sanders moved, seconded by Mr. Ulbright, to suspend the rules and place on third and final reading. Upon roll call, motion carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

Mr. Sanders moved, seconded by Mr. Steiner, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

4. First Reading – RESOLUTION NO. 2013-74 A RESOLUTION AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO PURCHASE ITEMS OF SPECIALIZED TECHNOLOGY, TO WIT: DEFIBRILLATORS FOR THE FIRE DIVISION (Steiner)

Mr. Steiner informed council that the Fire Division is asking for permission to purchase three LIFEPAK Monitor/Defibrillators using part of a 2012 FEMA grant accepted by Resolution No. 2013-31. The city will pay 10% of the cost, while the FEMA grant will cover the remaining 90%. The total cost to the city will be \$7,899.97.

Mr. Steiner moved, seconded by Mr. Ansel, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

5. First Reading – RESOLUTION NO. 2013-75 A RESOLUTION AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO PURCHASE RESCUE TOOLS FOR THE FIRE DIVISION (Steiner)

Mr. Steiner informed council that the Fire Division is asking for permission to purchase two stabilization kits, two stabilization air bag sets, and one rescue tool power unit and related cutter/spreader using part of a 2012 FEMA grant accepted by Resolution No. 2013-31. The city will pay 10% of the cost, while the FEMA grant will cover the remaining 90%. The total cost to the city will be \$3,600.00. Chief Eyster explained that this equipment would be used to stabilize a victim or vehicle that is in a precarious position. This equipment will allow fire personnel to perform their jobs more safely and effectively.

Mr. Steiner moved, seconded by Mr. Ulbright, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

6. First Reading – RESOLUTION NO. 2013-77 A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET AND COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR (Ansel)

Mr. Ansel stated that he would like to proceed with a vote on this legislation because it is information provided by the Wayne County Budget Commission. It relates to the percentage of property taxes collected by the county, which are then relayed to the city for the general fund.

Mr. Ansel moved, seconded by Mr. Steiner, to suspend the rules and place on third and final reading. Upon roll call, motion carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

Mr. Ansel moved, seconded by Mr. Steiner, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

VIII. EXECUTIVE SESSION

Mr. Ulbright moved, seconded by Mr. Cavin, to go into executive session to discuss litigation. Upon roll call, motion carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

Ms. Knapic moved, seconded by Mr. Ansel, to reconvene from executive session. Upon roll call, motion carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

IX. NEW BUSINESS

7. First Reading – RESOLUTION NO. 2013-76 A RESOLUTION AUTHORIZING THE DIRECTOR OF LAW TO INSTITUTE LEGAL PROCEEDINGS ON BEHALF OF THE CITY OF WOOSTER TO PURSUE POTENTIAL CLAIMS FOR DAMAGES REGARDING UPGRADES THAT WERE PERFORMED AT THE WASTEWATER TREATMENT PLANT DURING 2007, AND DECLARING AN EMERGENCY (Sanders)

Mr. Sanders began by stating that the city engaged a firm in 2012 to evaluate the upgrades made to the Wastewater Treatment Plant. The consultant determined that the plant upgrades have not performed in accordance with the design standards as stipulated in the contract. This determination is also shared by the city's plant operators. The law director consulted with outside counsel and arrived at the conclusion that a legal basis exists such that the city can seek to recover money damages on behalf of the city. Mr. Sanders stated that, unless there were any objections, he would like to move this legislation to third a final reading. Mr. Ulbright asked if the phrase "during 2007" meant that only work done during that year is part of the issue and would the biotower be included in the litigation. Mr. Benson replied that the phrase means that everything that occurred during 2007 to the present day is included.

Mr. Sanders moved, seconded by Mr. Steiner, to suspend the rules and place on third and final reading. Upon roll call, motion carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

Mr. Sanders moved, seconded by Ms. Knapic, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Cavin-yes; Knapic-yes; Sanders-yes; Steiner-yes and Ulbright-yes).

X. MISCELLANEOUS

XI. ADJOURNMENT

Mr. Ulbright moved, seconded by Mr. Steiner, to adjourn. Motion carried and meeting so adjourned at 9:35 p.m.

Michael G. Buytendyk
President of Council

Amy M. Hamilton
Clerk of Council