

CITY COUNCIL MINUTES  
April 18, 2005

President Judi Mitten called the regular meeting of City Council to order at 7:30 p.m. in council chambers and upon roll call, members answered present as follows: Breneman, Buytendyk, Cavin, Griffin, Silvestri, Topovski, Ulbright.

Mr. Silvestri moved, seconded by Mr. Buytendyk, to approve the minutes of the April 4, 2005 meeting as received. Motion carried.

Mr. Topovski stated that the public health and leisure committee met recently with members of the Humane Society; they are expressing interest in having the city fund a portion of their budget. There seems to be a big situation with the city cat population; after meeting with them the committee had a consensus that we should assist in funding of the Humane Society and he planned to meet with Mr. Breneman and the city finance director to see where funds might be available and will report back to council at a later session.

Mr. Griffin stated that on April 11, the public utilities meeting convened and present were four of our council members and President Mitten. We were provided a very informative presentation by Mr. Borton regarding the water pollution control plant and the proposed upgrade to the plant which we'll be talking about this evening in Resolution 2005-34. We also had a presentation by Mr. Benson and President Mitten on behalf of the Moral Claims Board regarding Resolution 2005-31 which is on tonight's agenda. The meeting went well; we had our questions answered about a very serious project that's a huge expense and hopefully, we can proceed as needed.

Ms. Mitten stated that she had received a request that she thought Mr. Ulbright's committee should think about and that was unimproved streets. Mr. Ulbright said he was also composing a list of sidewalks that needed repair.

Ordinance No. 2005-8 vacating a portion of an unnamed public alley in the City of Wooster (vicinity of Beall Avenue and Nold Avenue) was read by title, being on third reading. Mr. Ulbright said he had been contacted by Mr. Conklin representing the party who wished to have the alley vacated, to table this ordinance to allow the parties additional time in which to hammer out a compromise. (The following comments are verbatim as the clerk was requested by Mr. Conklin to provide him with a copy of the transcript of this portion of the minutes). Mr. Ulbright - I talked to him (Mr. Conklin) on the phone and he asked me if it was necessary that he put something in writing to us and I told him that I would relate the message and we have the memo from Mr. Benson in front of us. I think there can be some kind of agreement hammered out and I see no problem from my standpoint in asking that we table this and I intend to take it off the table as soon I get some message from Mr. Conklin that either an agreement has been worked out or no agreement has been worked out. I would ask Mr. Drushal if he had heard anything from Mr. Conklin, although he represents the other side.

Mr. Drushal – Consistent with what you read there; he contacted me and the bottom line is we don't have an agreement. Among various problems, Mr. Conklin doesn't own the property; he

has it under contract of some sort and so he really doesn't have authority to make a final deal unless or until he becomes the owner and so it's a bit of the chicken and the egg thing. He's not sure he wants to become the owner unless he works out a deal so we have reached a bit of an impasse on that practical problem. We may or may not be able to work out the details on exactly how it would work and what the traffic flow and so on could be agreed upon if we get to that point. I told Mr. Conklin that we would not oppose having it tabled but I also don't want to give the impression that we're in favor of having the alley eventually vacated. We may or may not be with more information to learn. Maybe Mr. Lang would like to elaborate on that, too.

Larry Lang – I'll be brief. I believe that in the first meeting, Mr. Topovski asked if this is a deal breaker and Mr. Quinn said that it was not and I believe it was you Mr. Ulbright who asked at the second reading if this was a deal breaker and once again, he did not say that it was. So, my point is if it's not a deal breaker, is it possible maybe just to keep things as they are. This is my first experience in anything like this. I don't wish to be the soul deal breaker either. I appreciate your positions; everybody would like to have a nice new something there instead of what is there, but yet you hate to go against somebody who's been, like myself, there for that number of years. We will attempt to see what we can do, but my main point is that's not a deal breaker and my main question is simply this. If I would relent to this in any way, what if their deal does not go through for some other reason while I have given that up in effect for nothing. Whatever that answer is I don't know. Thank you.

Mr. Benson said he had discussed that a little with Mr. Conklin and his suggestion was that we could amend the ordinance to provide that that was a condition of any vacation. And if that doesn't occur, then the ordinance doesn't take effect; that way Mr. Lang would be protected.

Mr. Ulbright moved, seconded by Mr. Topovski, to table this ordinance for the near future. Upon roll call, motion to table carried unanimously.

Ordinance No. 2005-10 to appropriate certain property interests in real property owned by Delmar R. and Susan T. Lang adjacent to or abutting the Canal Road area, and declaring an emergency was read by title, being on first reading. Ms. Cavin recused herself from discussion and voting on this issue. Mr. Griffin stated that with the unanimous passage of Resolution 2005-20, this council declared the necessity and intention for appropriation in this matter. This was our last step and this was the legal teeth behind the decision. This directs our law director to follow the prescribed course through the appropriate judicial systems. Mr. Griffin moved, seconded by Mr. Buytendyk, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Griffin moved, seconded by Mr. Topovski, to adopt. Upon roll call, motion to adopt the ordinance carried unanimously.

Ordinance No. 2005-11 accepting application for annexation of territory located on the east side of Melrose Drive, north of Portage Road, and contiguous to the present corporation limits (Attorney J. Douglas Drushal, Agent for Petitioners Gerald and Mary Henry) was read by title, being on first reading. Mr. Buytendyk stated that this was one of those island areas on Melrose Drive; the Henrys filed a petition to annex several months ago because their existing septic system was failing, creating a health hazard and nuisance not only for them but for the surrounding city residents. We're in a position to assist, having sewer services available and it's

likely that other residents in that area will follow suit. Mr. Buytendyk moved, seconded by Mr. Griffin, to suspend the rules and place on third and final reading. Upon roll call, motion carried unanimously. Mr. Buytendyk moved, seconded by Mr. Silvestri, to adopt. A short discussion followed. Upon roll call, motion to adopt carried unanimously.

Ordinance No. 2005-12 authorizing the Mayor to enter into a preannexation agreement with certain property owners for the purpose of facilitating the annexation and extension of utility services to those properties contiguous to the City of Wooster, and declaring an emergency was read by title, being on first reading. Mr. Buytendyk stated that this was a companion ordinance to a resolution further down on the agenda involving two property owners who wish to annex into the city because of the services the city can provide. Mr. Drushal stated that this was a water issue rather than a sewer issue. This was next to the Bob Evans Restaurant on Robison Road; Mrs. Musselman owns the first large lot next door and her personal residence was a three-acre parcel behind that. The city ran a water line through there some time ago and the stubs were there but they weren't allowed to hook up to the city sewer until they are annexed. The water from the well is terrible so she can't rent the house; it's vacant because of the tap water. This was motivated by water and because the house was vacant and unrentable, it was uninsurable. He had contacted Mr. Benson and Mr. Sigg advising them that we were underway on the annexation process and asked would it be possible to get a preannexation agreement in order to allow water hook up sooner so that this lady can get her house rented and thereby insured. We did give notice to the other property owners in the area that this was underway and Mr. Murphy contacted me and asked to join in the petition. A short discussion followed. Mr. Buytendyk moved, seconded by Mr. Silvestri, to suspend the rules and place on third and final reading. Upon roll call, motion carried unanimously. Mr. Buytendyk moved, seconded by Mr. Griffin, to adopt and upon roll call, motion carried unanimously.

Ordinance No. 2005-13 adopting a Residential Anti-displacement and Tenant Assistance Plan designed to provide services and promote policies consistent with the Housing and Community Development Act of 1974, as amended was read by title, being on first reading. Mr. Griffin stated that he had spoken with the Mayor and Mr. Benson this afternoon and this was quite simple. The City of Wooster receives Community Development Block Grant money and thus, we need to have this format for anti-displacement and relocation approved and on file. Basically, if you look at attachment 2 on the back of the ordinance, the first sentence states that the anti-displacement and relocation assistance plan was required by all grantees prior to funding whether or not demolition activities are planned. The City will not and cannot go identify a home for demolition because it's not up to code or it's dangerous and throw people out of their homes. If a city were to determine that a home was unsafe and not up to standard and did need to displace a homeowner, the city would need to provide new housing for that homeowner. We have no intention of doing this and we've never done it. Mr. Sigg stated that it's only if the demolition is being funded by the federal funds; this would not keep us from our normal procedure. You can't use federal funds to decrease the amount of low or moderate income housing that's available. Mr. Griffin moved, seconded by Mr. Breneman, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Griffin moved, seconded by Mr. Silvestri, to adopt. Upon roll call, motion to adopt carried unanimously.

Ordinance No. 2005-14 amending the Annual Appropriation Ordinance was read by title, being on first reading. Mr. Breneman stated that like the rest of council, he had just been given this ordinance, so in referring to Section 1, it states that we're going to spend \$21,000 out of the unappropriated balance of the water fund. This wasn't a budgeted item; it was going to be appropriated to the water meter maintenance cost center consisting of two things; one updating nine existing hexagram star data collection units from analog to cellular service which would be updated to an ether net data collection which dealt with the AMR for the meters we have in our houses and then purchasing hardware and software\ maintenance and monitoring for the star hexagram system. Mr. Sigg stated that council was aware that we're switching over our cellular phone system to another and we have to convert those systems also. The existing ones run on old analog echo bag phones sitting on top of buildings. This will upgrade them to digital service. The readings we've been getting are more and more erratic and it makes sense to get everything under one contract and upgrade the service. Mr. Silvestri stated that generally he was uncomfortable with moving something to third and final with no prior notice at all. It's probably a good idea to do it along with the cell phone upgrade but he wondered what the cost of repairing these individually would be. Mr. Sigg said that everything in the whole system is digital and the system isn't responding well at the present time. It is something that we need to get done. We have a redundant system so that if one phone system goes down, one of the phones go out, most meters are designed to be read by three separate BCU's so that if we're not getting it from one we're getting it from another. Mr. Silvestri saw the necessity of the upgrade but he didn't think it was fair to council or the citizens to slide things in like this. Ms. Cavin asked if he knew what the projected balance of the water fund was for the end of this year. Mr. Breneman stated that he couldn't recall off the top of his head but he knew it was well funded. Ms. Cavin stated that she did agree with Mr. Silvestri and that he did make a good point. She Understood that sometimes it's going to happen but it's not the best way of doing things to present things to council at the last minute. Mr. Breneman moved, seconded by Mr. Ulbright, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Breneman moved, seconded by Mr. Buytendyk, to adopt. Upon roll call, motion to adopt carried unanimously.

Resolution No. 2005-31 authorizing the payment of moral claims, as recommended to council by the Moral Claims Board, and declaring an emergency was read by title, being on first reading. Ms. Mitten stated that the moral claims board consisting of herself, Dick Benson and Andrei Dordea met with the Lavertys and Council has the results of that meeting in a resolution. This payment would be from the water pollution control fund in the amount of \$45,391. In review, the Lavertys built their house in Miller Lakes in 1992 and they had an excavator put the water and sewer lines in on Eden and Hemlock and they paid the city the fee for the inspection service. However, there were several homes in addition to the Laverty's home that are on this line. Because there is an approximately 900 ft. gap of sanitary sewer on Wayne Avenue, the several houses on Christmas Run and Morgan run through this line. The Lavertys didn't have any problems until January 2, 2005 when there was a back up in the floor drain in the furnace room in their finished basement. Service Master did clean this up for them; the city sent a crew to investigate and they checked the manholes, uncovering one of them. Again, January 5, the toilet on the lower level started erupting with sewage. In a 1500 sq. ft. area, in an hour they had over 4" of sewage covering their basement. The summary of their expenses for cleanup was \$9,776; reconstruction costs of \$32,081. A special valve was installed which will hopefully prevent this

from happening again and that with the video was \$1,414. The personal contents are irreplaceable; how can you replace your kid's artwork from second grade; oriental rugs that belonged to your mother; old family photographs? They put a figure on these of \$13,310. After hearing this proposal, the moral claims board felt that the city had a moral obligation to pay \$45,391 and recommended that council adopt this resolution. Ms. Mitten asked after discussion, that a member of council make the motion for suspension of rules and adoption of the resolution. After a lengthy discussion, Mr. Silvestri moved, seconded by Mr. Breneman, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Silvestri moved, seconded by Mr. Griffin, to adopt. Upon roll call, motion carried unanimously.

Resolution No. 2005-32 adopting and approving a Community Housing Improvement Strategy (CHIS), and declaring an emergency was read by title, being on first reading. Mr. Breneman stated that this was connected with our CHIP program that we approved at our last meeting authorizing the application for about \$600,000 from the state and federal agencies for our Community Housing Improvement Program. In order to receive those CHIP funds, we have to have a Community Housing Improvement Strategy (CHIS). There were several requirements connected with constructing the CHIS and formulating a plan of how best to use CHIP funds. Ms. Cavin asked that this remain on first reading in order to have a chance to review the proposed CHIS.

Resolution No. 2005-33 stating to the Wayne County Commissioners, pursuant to Revised Code Section 709.03, the services which the City of Wooster would be able to provide for territory located on the north side of Robison Road, east of Madison Avenue, and contiguous to the corporation limits, and declaring an emergency. (J. Douglas Drushal, Esq., Agent for Petitioners) was read by title, being on first reading. Mr. Buytendyk stated that this was a companion piece for the ordinance that was passed earlier for the preannexation agreement. The property owners have filed a petition with the County Commissioners and this resolution was a typical perfunctory piece of legislation that's required for an annexation to be accepted by the commissioners stating the services that the city can provide if they were accepted into the City of Wooster. Mr. Buytendyk moved, seconded by Mr. Ulbright, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Buytendyk moved, seconded by Mr. Breneman, to adopt. Upon roll call, motion to adopt carried unanimously.

Resolution No. 2005-34 authorizing the Director of Administration to advertise according to law and enter into contracts with the lowest and best bidders for the purchase and installation of plant upgrades at the Water Pollution Control Plant, and declaring an emergency was read by title, being on first reading. Mr. Griffin stated that Mr. Borton gave us a very thorough presentation at our public utilities meeting regarding this project; he went into great detail about every part of this project starting back in 2001 walking us through every step along the way and what needs to be done now to accomplish this project. As the legislation states, bids for the upgrade came in significantly higher; the project was re-examined and the specifications were looked at and the project will be rebid. Last year, City Council approved \$13.5 million dollars from the water pollution control fund for upgrades to the plant. Now we are being asked to authorize an additional \$5.6 million to accomplish the same thing. Mr. Griffin highlighted some of the reasons for this dramatic increase in cost. The project will mean a 5% increase in user fees for each of the next three years which means that by 2008, the average city resident user will be

paying \$2.63 more per month for water and sewer. We will still all be paying less than we were paying in 1997 when there was a 20% reduction in those fees. Mr. Griffin said that the bottom line was that we must provide a water pollution control plant to meet the growing needs of our residents and customers. We must construct a plant which will reduce our legal liabilities related to water treatment and the EPA. Our plant has deteriorated long enough and we haven't done the job right. Now, we can fix the problem and ensure quality water treatment services for our children and grandchildren. We are fortunate that we can construct a world class facility for a relatively small financial commitment from our customers. After a lengthy discussion, Mr. Griffin moved, seconded by Mr. Topovski, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Griffin moved, seconded by Mr. Ulbright, to adopt. Upon roll call, motion to adopt carried unanimously.

Resolution No. 2005-35 authorizing the Director of Administration to purchase items of specialized technology, to wit: four servers for the Information Technology Division, and declaring an emergency was read by title, being on first reading. Mr. Breneman stated you may recall that over the past couple years that we dealt with a number of servers that keep our city's computer systems up and running. We've had to replace some of them, one to the tune of approximately \$200,000, another for an additional \$30,000. The four we are dealing with tonight are mini-servers and would not affect those servers other than making them work better. According to Ty Collins, these help the flow of information move more quickly and efficiently through the system. This was a budgeted item at about \$25,000 and was planned for 2005. Mr. Breneman explained the function of the four mini servers. After a short discussion, Mr. Breneman moved, seconded by Mr. Buytendyk, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Breneman moved, seconded by Mr. Buytendyk, to adopt. Upon roll call, motion to adopt carried unanimously.

Resolution No. 2005-36 authorizing the Director of Administration to enter into a contract with Stout Excavating of Wooster, Ohio for the construction of a storm sewer across Bever Street, and declaring an emergency was read by title, being on first reading. Mr. Griffin stated that the area in question was at the northeast corner of Bever and Wayne Avenue just north of the college where there's a huge swale which collects a tremendous amount of storm water and obviously creating a safety risk. It was planned for this year's budget and was above the \$15,000 threshold and below the \$25,000 and can be assigned for immediate construction to create an outlet sewer drain for the storm water to drain out of that swale. Mr. Griffin moved, seconded by Mr. Breneman, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Griffin moved, seconded by Mr. Topovski, to adopt. Motion carried unanimously and the resolution was adopted.

### Miscellaneous

Chris White, 3260 Shelley Boulevard, stated that they had there rumors that there were going to be three more baseball fields at Freedlander Park and our property abuts on that park. Their concern was that there was going to be massive deforestation on the east side of the park which would take away the buffer zone between the residential area and the park. She asked if there was any truth to that rumor? Mr. Montgomery stated that the parks had asked his department to lay out three women's softball league ball fields in an existing area and specifically to stay out of

any areas where trees were growing. The three ball fields fit into an already existing grassy area. Ms. Mitten stated that this has not been brought to council at this point but she suggested that they keep in touch with their council representative, Mr. Silvestri, as to when this might come before city council.

Mr. Topovski said we had a lot of discussion regarding a moral claim on a situation that happened on a private subdivision and I hope that as more and more of these private subdivisions or associations take place that the developers and the property owners are made aware that when their sewers or water goes bad, they need to look closely to their association. There's more and more of these projects being developed in Wooster. People need to be aware that if something goes wrong, the city is not responsible for it. The people involved in marketing these projects need to make the prospective buyer aware that there's going to be some responsibility there that the city was not going to carry.

Mr. Silvestri asked about water quality throughout the city in that in different areas of the city, there seemed to be a difference in the taste of the water and constituents say that it tastes like chlorine. Was there a reason for that? Mr. Sigg stated that the short answer for that is that we are required to maintain a certain chlorine residual at the farthest reaches of the system. You get all the way up to the last house on the last line, you still have to have a certain chlorine residual; however, chlorine dissipates over time so if you are closer to the plant and getting greener water, it hasn't had time to age as much and you're going to have a higher chlorine level. Mr. Borton said that different types of pipe will chemically react with the water and will also affect the taste of the water.

Mr. Buytendyk moved, seconded by Mr. Silvestri, to adjourn. Motion carried and meeting so adjourned at 9:50 p.m.

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President of Council

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Clerk of Council