

CITY COUNCIL MINUTES

August 17, 2009

7:30 p.m.

I. ROLL CALL & ORDERING OF AGENDA

Acting President David Silvestri called the regular meeting of Wooster City Council to order at 7:30 p.m. in council chambers by asking everyone to rise and join in the Pledge of Allegiance. The following members were present: Jon Ansel, Mike Buytendyk, Bob Henery, David Silvestri, Jeff Steiner and Jon Ulbright. Ed Schuch was absent.

II. APPROVAL OF MINUTES

Mr. Steiner moved, seconded by Mr. Silvestri, to approve minutes of the July 6, 2009 meeting. Upon voice vote, motion carried unanimously.

III. COMMUNICATIONS FROM MAYOR/ADMINISTRATION

Mayor Breneman updated council on various activities in the city (construction projects and 2010 budget).

Mr. Dordea gave a brief overview of the first quarter financials. He told council through July 2009 revenues were down 7 percent, while expenditures also were 9 percent below budget projections. Mr. Dordea forecast revenues to be down 4 percent this year, but said, by comparison, the city is faring well. Income taxes, he added, also are down about 6 percent over the same time period.

Mayor Breneman indicated there has been an ongoing problem with EnviroClean Services, 515 Industrial Blvd., due to a noxious odor coming from their business. The city has been working with them for quite some time but after several failed attempts to resolve the problem, the city issued EnviroClean a zoning revocation for which they will have 20 days to appeal. The city has been working with this business for sometime trying to bring them into zoning compliance.

Mayor Breneman asked council to adjourn into executive session for the purposes of discussing two issues, possible litigation and purchase of real estate. Mr. Henery moved, seconded by Mr. Buytendyk, to go into executive session. Upon roll call, motion carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

Mr. Steiner moved, seconded by Mr. Ansel, to come out of executive session. Upon roll call, motion carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

IV. PETITIONS/COMMUNICATIONS FROM PUBLIC

A notice was received from the Ohio Division of Liquor Control that Corralejo Restaurant, Inc., 4782 Cleveland Avenue, Wooster, OH, 44691 applied for a new D3 liquor permit. Mr. Ulbright moved, seconded by Mr. Henery, not to request a hearing. Upon roll call vote, motion carried unanimously.

The following members of the audience spoke: Clifford Hill, 1165 Billiar Street, submitted a petition on behalf of his neighborhood regarding an odor in the area of Palmer, Rebecca, Bardon, Billiar, Pittsburgh and Bauer Rd. caused by EnviroClean. Mr. Hill also expressed concern over snow removal and traffic problems on Billiar St.; Bill Walter, 1147 Billiar St. (EnviroClean odor and road condition of Billiar St.); John Leach, 1150 Pittsburg Ave. (odor and traffic problems in neighborhood). Mayor Breneman indicated he will look into these roadway, traffic and line of site concerns. Mr. Silvestri requested city administration keep council updated on these issues.

V. COMMITTEE REPORTS; PUBLIC HEARINGS

None

VI. OLD BUSINESS

Mr. Silvestri noted there was an additional piece of legislation, Resolution No. 2009-67 and asked for a motion to re-order the agenda. Mr. Ulbright moved, seconded by Mr. Steiner, to re-order the agenda and put Resolution No. 2009-67 in front of old business. Upon roll call, motion carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

1. First Reading - RESOLUTION NO. 2009-67 DECLARING A NUISANCE AND AUTHORIZING THE DIRECTOR OF LAW TO INSTITUTE PROCEEDINGS ON BEHALF OF THE CITY OF WOOSTER TO ENFORCE THE GENERAL OFFENSES CODE RELATIVE TO NOXIOUS OR OFFENSIVE ODORS, AND DECLARING AN EMERGENCY (Buytendyk)

In reference to the odor and nuisance occurring as a result of EnviroClean's present and past practices, Mr. Buytendyk indicated this resolution would authorize the city law director to file for an injunction to have EnviroClean cease operation immediately, based on the fact their existing zoning permit has been revoked and the fact they are continuing in non-compliance with the permit which allowed them to operate. Mr. Buytendyk stated the company has been given multiple chances to rectify the problem.

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

Mr. Buytendyk moved, seconded by Mr. Ansel, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

1. Second Reading - ORDINANCE NO. 2009-19 AUTHORIZING THE MAYOR TO EXECUTE A NON-DEVELOPMENT LEASE AGREEMENT WITH R.D. WILES, INC. OF WOOSTER, OHIO, PROVIDING FOR CITY-OWNED PROPERTY (ROAD RIGHT-OF-WAY) TO BE INCLUDED IN A UNIT FOR PURPOSES OF DRILLING A GAS WELL (Schuch)

Mr. Ansel recused himself. In Mr. Schuch's absence, Mr. Ulbright introduced the ordinance. He indicated a thorough explanation was given on this ordinance at its first reading on July 6, 2009. The ordinance remained on second reading as there were not enough voting council members to move the ordinance to third and final reading.

VII. NEW BUSINESS

2. First Reading - ORDINANCE NO. 2009-20 AMENDING PART ONE, ADMINISTRATIVE CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF WOOSTER, OHIO, BY THE ADOPTION OF CERTAIN RESIDENCY LIMITATIONS FOR SAFETY FORCES PERSONNEL (Buytendyk)

Mr. Buytendyk explained this is a housekeeping item to allow the city's codified ordinances to comply with a recent Supreme Court ruling upholding a revised code provision which eliminates residency requirement by municipalities. Currently the city's codified ordinance requires safety forces to live in Wayne County. The Supreme Court said the Ohio legislature had the right to eliminate that type of provision even though cities such as Wooster are charter cities.

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

Mr. Henery questioned if this pertained to all safety force personnel, including administrative employees. Mr. Benson stated it did. Mr. Henery expressed his concerns over safety personnel response times. Council members agreed it was a legitimate concern and expressed their displeasure with the state legislature's decision to change the residency requirement. Mr. Buytendyk pointed out that by adopting this ordinance it limits residency to adjacent counties, but if council does nothing, safety forces could live anywhere in the state of Ohio.

Mr. Buytendyk moved, seconded by Mr. Steiner, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

3. First Reading - RESOLUTION NO. 2009-58 ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR (Ansel)

Mr. Ansel stated this is an annual resolution and sister legislation to Resolution No. 2009-54 which provided for the annual tax budget for 2010, which council passed on June 15, 2009. The Wayne County Budget Commission passed the city's 2010 tax budget and approved the city's 2010 mileage rates based on 2009 tax projections. The commission consists of Jarra Underwood, County Auditor, Bev Shaw, County Treasurer and Martin Frantz, Wayne County Prosecutor. Mr. Ansel noted this is standard operating procedure that is done every year.

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

4. First Reading - RESOLUTION NO. 2009-59 AUTHORIZING THE DIRECTOR OF FINANCE TO ISSUE PAYMENT FOR SERVICES RENDERED UNDER CONTRACT(S) WITH VENDORS OR FOR SERVICES PROVIDED TO THE MUNICIPALITY, AND DECLARING AN EMERGENCY (Schuch)

Mr. Henery stated an air conditioning unit was needed at Freedlander Chalet and the Wooster Swim Team Parents Organization agreed to donate the entire amount to pay for the purchase and installation of the new system. The work was completed in June. Mr. Ulbright commended the swim team parents for their generosity in donating \$3,877 and working with Parks and Recreation to replace the air conditioning unit. Mr. Silvestri echoed those comments.

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

Mr. Henery moved, seconded by Mr. Steiner, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

5. First Reading - RESOLUTION NO. 2009-60 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO CONTRACT WITH THE NICK AMSTER SHELTERED WORKSHOP FOR CLEANING SERVICES FOR THE MUNICIPAL BUILDING, AND DECLARING AN EMERGENCY (Schuch)

Mr. Ulbright stated this legislation would authorize entering into a contract with the Nick Amster Sheltered Workshop to provide cleaning services for the Municipal Building. The cost of these services is budgeted and will not exceed \$30,000, payable from the General Fund.

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

Mr. Ulbright moved, seconded by Mr. Ansel, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

6. First Reading - RESOLUTION NO. 2009-61 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO PURCHASE ITEMS OF SPECIALIZED TECHNOLOGY, TO WIT: MOBILE DATA TERMINALS FOR THE POLICE DIVISION, AND DECLARING AN EMERGENCY (Steiner)

Mr. Steiner stated this is a budgeted item for replacement of equipment that has gone through its life cycle, specifically six (6) mobile data terminals that are currently over five years old. They are out of warranty, cannot be serviced and are not operating properly. Police officers use this equipment on a regular basis for dispatching, messaging and to run LEADS and NCIC checks.

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

Mr. Steiner moved, seconded by Mr. Ulbright, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

7. First Reading - RESOLUTION NO. 2009-62 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 CONTROL VALVES ON THE TRANSMISSION MAIN WATER LINE, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Silvestri stated the new secondary water main is completed and operating. However, there are several control valves located on the transmission main connected to the north end of the new secondary transmission main which need replaced. These valves are located on W. Old Lincoln Way, between Liberty and Old Mansfield Road. The secondary water main project was completed for \$388,000 under budget due to OPWC funding and actual project cost savings. The estimated cost to replace the valves is \$65,000 which will be funded from the existing Secondary Transmission Main Budget. These 1920 vintage valves are in dire need of replacement and are dangerous for city employees to service. Mr. Ulbright shared concerns for employees' safety when working on the valves and because of the cost savings it gives the city a golden opportunity to do the work now.

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

Mr. Silvestri moved, seconded by Mr. Ulbright, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

8. First Reading - RESOLUTION NO. 2009-63 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ADVERTISE ACCORDING TO LAW AND ENTER INTO A CONTRACT WITH THE LOWEST AND BEST BIDDER FOR THE PURCHASE OF A VEHICLE, AND DECLARING AN EMERGENCY (Ansel)

Mr. Ansel indicated he would be leaving this resolution on first reading. Information Technology personnel serve various city facilities and use two city vehicles to travel between facilities and transport IT equipment. One of their vehicles is no longer in use and the other vehicle needs to be replaced as the cost of repairs has begun to exceed its value. A new vehicle was budgeted for the IT Division in 2010, but they are requesting funds be allocated in order to purchase the vehicle in 2009. Resolution remained on first reading.

9. First Reading - RESOLUTION NO. 2009-64 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A CONTRACT WITH OHIO CAT FOR WARRANTY COVERAGE FOR A DIESEL GENERATOR AT THE WATER POLLUTION CONTROL PLANT, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Silvestri stated the city has an option to purchase a five year factory warranty for a diesel generator at the Water Pollution Control Plant. Estimated cost of the warranty is \$17,000 and will cover not only the parts and labor, but also any replacement units that may be needed if the generator is down. This cost was not budgeted but the funds would come out of the Water Pollution Control Plant Funds. Mr. Borton answered several of council's questions regarding the generator and indicated the warranty would cover almost all parts and repairs which would otherwise be very costly. Mr. Silvestri feels this is a necessity as there is too much at stake not to purchase the warranty.

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

Mr. Silvestri moved, seconded by Mr. Buytendyk, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

10. First Reading - RESOLUTION NO. 2009-65 AMENDING RESOLUTION NO. 2008-40 BY INCREASING THE AMOUNT OF THE CONTRACT, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Silvestri indicated a brief overview was distributed to council members prior to the meeting. The contract is to cover additional hauling and disposal of sludge from the Water Treatment and Water Pollution Control Plants due to over burdening. The cost will not exceed \$1,375,000.00, of which amount \$875,000.00 was previously appropriated, and an additional \$500,000.00 is appropriated from the unappropriated balance of the Water Pollution Control Fund. Mr. Silvestri feels there is no other option at this point until the biotower is operational. Mr. Borton answered several of council's questions.

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

Mr. Silvestri moved, seconded by Mr. Ansel, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

11. First Reading - RESOLUTION NO. 2009-66 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A COOPERATIVE AGREEMENT WITH FRITO-LAY, INC. FOR THE CONSTRUCTION OF A BIOTOWER FOR THE TREATMENT OF EXTRA STRENGTH WASTE WATER EMANATING FROM THE FRITO-LAY PLANT, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Silvestri indicated the legislation would authorize the Director of Administration to enter into a cooperative agreement with Frito-Lay, Inc. for the construction of a biotower for the treatment of extra strength wastewater emanating from the Frito-Lay plant. There has been lengthy communication and discussion with Frito-Lay regarding the agreement that will include terms upon which they will share in the cost of the construction of the biotower.

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

Mr. Ulbright asked if anyone else had concern over language in the contract where Frito Lay indicated they intend to continue operations in Wooster but are not committed to doing so. Mayor Breneman agreed that anytime there is a vagueness it raises an issue but the city has worked very hard with Frito-Lay to make sure this is a good thing for both them and the city and hopefully it will cement their position in the community for a long time to come. The biotower will help alleviate difficulties the city is having at the waster water treatment plant. Mr. Ansel questioned the three financing options and Mr. Benson clarified they are not options, but cumulative steps of the financing

process. Mr. Buytendyk feels Frito-Lay made a commitment to the community by sharing in the cost of the bio tower.

Mr. Silvestri moved, seconded by Mr. Steiner, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

VIII. MISCELLANEOUS

Mr. Henery wanted to again thank the city for replacing the waterline on Parkview Drive as it will keep Parkview School from having classes interrupted due to waterline breaks.

Mr. Ulbright thanked Mayor Breneman for reviewing all the projects in the city. He also stated the action taken in regards to Enviro Clean, particularly on behalf of the citizens that live in the area, was the right thing to do and he is glad council made a strong statement. Regarding the biotower, Mr. Ulbright felt the commitment of Frito-Lay to share the cost is very responsible of them and is something the city would like to see from all industries.

Mr. Buytendyk feels Frito-Lay and Wooster Swim Team parents show what a great community Wooster is.

Mr. Ansel thanked the residents of Ward 1 for their patience and perseverance in dealing with the conditions from Enviro Clean. Unfortunately the city has to follow due process to get things accomplished and Mr. Ansel hopes the residents realize that. Mr. Ansel announced he will be scheduling a Finance Committee to review the second quarter financial statement.

Mayor Breneman passed along comments from one of the residents who attended the meeting regarding the Enviro Clean smell. The gentleman had to leave the meeting but wanted council to know the neighbors appreciated council allowing them to speak and making it comfortable for them to state their views and opinions.

Mr. Silvestri commended city administration for their forethought and initiative in being prepared so that council was able to intelligently take action on the Enviro Clean issue.

Council received a memo from the mayor regarding a petition for the enlargement of the Revitalization District. Mr. Ulbright asked several questions and wanted to know if it would be on a future agenda. Mr. Benson indicated the mayor has to make a recommendation to council within 30 days of the time that the petition was received and council has to act on it within 75 days. Notice of pending application must also be published twice in a newspaper of general circulation before coming before council.

Mr. Silvestri has received consistent feedback in respect to the intersection of Milltown Rd. and SR 83, by Buehlers Milltown. He would like to know if it would be possible to put more of a pedestrian area there. Mr. Silvestri asked the city engineer look into this and get back to him with an answer. Mr. Silvestri also commented how nice Beall Avenue looks and how the residents and businesses appreciate the access being open to them.

IX. ADJOURNMENT

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

David J. Silvestri
Acting President of Council

Cheryl K. Collins
Clerk of Council