

CITY COUNCIL MINUTES
June 15, 2009

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, Ed Schuch, David Silvestri and Jon Ulbright. Jeff Steiner was absent.

II. APPROVAL OF MINUTES

Mr. Schuch moved, seconded by Mr. Buytendyk, to approve minutes of the June 1, 2009 meeting. Upon voice vote, motion carried unanimously.

III. COMMUNICATIONS FROM MAYOR/ADMINISTRATION

Mr. Benson, Law Director, indicated the Mayor was in Florida preparing to represent the City of Wooster at the All America City Competition.

IV. PETITIONS/COMMUNICATIONS FROM PUBLIC

The clerk read a notice from the Ohio Division of Liquor Control regarding a request for the transfer of a D1, D2, D3 liquor permit to Wooster Foods Inc., dba CIAO Bella, 150 W. Liberty Street from Wilson Property Management Inc., 131 N. Market Street 1st floor & basement & patio. Mr. Buytendyk recused himself from the discussion.

The following members of the audience spoke against the liquor permit transfer and bar in downtown Wooster: Spiro T. Matso, 3322 Aspen Drive; Michael E. Daugherty, 216 Larwill St.; James Taggart, 824 E. Bowman St.; Harry Featherstone, 641 Beechwood; Marian Nickelson, 876 Lois Ave.; Reed Smucker, Reed Rd.; and Wayne Zacour, 1167 Sommerset. Dr. Gene Morris, owner of CIAO Bella, spoke in favor of the transfer and explained his intentions for the restaurant/bar.

Jeff Griffin, Executive Director of the Wooster Area Chamber of Commerce, addressed council regarding the recently approved Revolving Loan Fund. As an expression of the Chamber's teamwork and optimism for the RLF, Mr. Griffin gave a \$20,000 check to the City of Wooster as a contribution towards the fund.

Bill Wallace and Peter Lautzenheiser, 5621 Bechtel Rd., voiced their concerns about road construction causing traffic problems throughout town. Mr. Ulbright responded by asking for patience from citizens as the construction should be completed by the end of summer and will vastly improve the streets. He indicated that some of the projects were delayed which caused multiple projects to be underway at the same time. Mr. Silvestri commented on the suggestion to perform construction at night and Mr. Ulbright directed the gentlemen to contact Joel Montgomery, City Engineer or Jim Newman, Maintenance Manager, for more complete answers on the road construction projects.

Due to public interest, Mr. Silvestri indicated he had contacted the Ohio Division of Liquor Control for clarification on the liquor permit transfer. The Division of Liquor Control is obligated to put the City of Wooster on notice that the transfer is taking place and city council has the opportunity to request a public hearing or opt not to request a hearing on the transfer. If a hearing is requested evidence must be presented as why the transfer should not take place. Such as, specific effects the liquor establishment will have on residences and nearby businesses, condition of premises, fights at premises, litter, excessive noise, property damage, parking issues, gun shots and other criminal activity at the premises or associated with the party who has filed for the liquor permit transfer. Mr. Silvestri stated that while he understood the public's concerns in regards to having another bar in downtown Wooster, that was not the issue before council. Council must decide if a hearing should be requested on the liquor permit transfer with respect to specific evidence of criminal activity surrounding the establishment which can be brought forward in order to object to the liquor permit transfer.

As representative of Ward 1, Mr. Schuch stated he spoke with representatives of the Wayne County Public Library, Chamber of Commerce, Main Street and he also met with Dr. & Mrs. Morris at the establishment they intend to open. He feels there are other areas where a bar would be more suitable, as he considers that area of Liberty Street to be a cultural area, but he has no detrimental evidence against the business to substantiate requesting a hearing on the transfer of the liquor permit. After talking with Dr. & Mrs. Morris he believes their intentions are to have a very upscale business.

Mr. Ansel stated he too met with the Morris' and took a tour of the restaurant. He feels it is a top notch restaurant bar owned and operated by responsible professionals who have taken a risk in investing thousands of dollars in a formerly vacant building and feels it will compliment the downtown. Mr. Ansel wanted to highlight that although there are concerns and emotions about the liquor permit transfer, it all boils down to the laws of the State of Ohio and if council could support facts in a hearing that showed this potential business substantially and adversely interfered with the normal orderly conduct of the affairs at that location. The prior history of the previous liquor permit owner is beyond council's control.

Mr. Ulbright asked the Law Director if he felt there was evidence that this proposed establishment had a record of violations and their location being within close proximity to the library, that they could be denied a liquor permit. Based on the information before council and the information the Chief of Police supplied, Mr. Benson felt there was virtually no likelihood of success. He noted past history and experience in seeking the revocation of issued liquor permits. In each instance there were significant police records that were directly attributable to the operation of the business and met criteria enumerated in Revised Code Section 4303.292.

Mr. Ansel noted council recently passed legislation to approve a Downtown Revitalization District to enhance the activity there and in the future council could be petitioned for 5 new liquor permits in downtown Wooster. Mr. Ulbright indicated those establishments would have to show 75% of their sales be food. Mr. Zacour, a member of the audience, referred to the new statute and said unless there is a change in the wording of the liquor permit law, there may not be any further establishments issued liquor permits. He also indicated there is a tax hold against the present permit holder, Wilson Property Management, Inc., pursuant to Ohio Revised Code 4303.271. Mr. Silvestri stated there is a matter of record of tax delinquency associated with the liquor permit, however the Ohio Division of Liquor Control confirmed that was a separate issue from the transfer. Even if council does not request a hearing for the transfer, the liquor permit cannot move forward until those tax issues are resolved or paid off. Mr. Ulbright questioned the Downtown Revitalization District wording which stated additional permits can only be added once all other permits are being used. At present Wooster has 14 such permits and all 14 are in use. Mr. Benson explained that the way the wording exists in the statute as of right now, the number of permits must actually exceed the number that are allowed based on quota. D type permits are issued based on population, every 2000 and any increment thereof. In order to avail from a Revitalization District designation, Wooster would have to have more D permits than the quota allows. Currently there is a language amendment to the statute that is awaiting approval by the US Senate. Until this wording amendment "equals or exceeds the number" is approved, Wooster cannot receive another permit.

Mr. Henery asked Chief Glick to report on past history of the former liquor permit holder. Chief Glick indicated from 2000-2008 his department received 70 calls at Seattle's, the former liquor permit holder, but of those, only 7 calls were related to the bar. In Chief Glick's opinion this was very minimal compared to other establishments around town. Mr. Henery stated he does not know Mr. Wilson, but he does know Mr. Morris, who has been an outstanding citizen in the community for a number of years and to take this opportunity away from him would be an injustice.

Mr. Ansel moved, seconded by Mr. Schuch, not to request a hearing on the liquor permit transfer. Upon voice vote, motion carried unanimously with Mr. Buytendyk abstaining.

V. COMMITTEE REPORTS; PUBLIC HEARINGS

Mr. Ulbright reported on the Public Infrastructure Committee meeting held prior to the council meeting at 6:00 p.m. on June 15, 2009 in council chambers of City Hall to discuss parking on unimproved streets. The committee was brought up-to-date on several sidewalk issues. The Safe Routes to School committee has met and will be providing data for future sidewalk construction. The Normandy Drive sidewalk project was completed for \$29,000 as opposed to the estimated \$47,000. Mr. Ulbright indicated several residents were in attendance to talk about parking on unimproved streets. Following discussion, the committee concluded they would like city administration to begin working on rewording language in the codified ordinances. Ordinance 905 deals with parking on the tree lawn on improved streets but does not address parking on unimproved streets which do not have tree lawns but have right-of-ways. Also there was a brief discussion on plans for the \$50,000 which was budgeted for future sidewalk construction. The committee decided that until information is received back from the Safe Routes to School committee, they would forgo singling out a sidewalk project for 2009 and designate the \$50,000 to the engineering department for sidewalk repairs throughout the city. In addition, the topic of children at play signs were addressed. Mr. Montgomery explained they a non-standard signs and studies have shown they are not effective deterrents to speeding and actually can create more problems than they solve.

A public hearing was held on the proposed 2010 Tax Budget in accordance with the Ohio Revised Code. Mr. Ansel explained that Resolution No. 2009-54 is a summary projection of revenue and operating expenses for the City of Wooster in 2010. The finance division compiles information based on prior year comparatives and project what the balance will be in 2010. The budget forecast shows revenues moving to \$17.1 million in 2010, which will be up from \$16.9 million in 2009 and total expenditures rising from \$18.6 million to \$19.1 million. Mr. Ansel opened the floor for public input, there was none and the public hearing was closed.

VI. OLD BUSINESS

1. Third Reading - ORDINANCE NO. 2009-14 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 from discussion. Being the ordinance was on third reading, Mr. Schuch felt it had received ample discussion and its purpose had been explained. Therefore he did not feel there was reason for continued discussion.

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

2. Second Reading - RESOLUTION NO. 2009-54 PROVIDING FOR THE ANNUAL TAX BUDGET FOR 2010 (Ansel)

Having just concluded a public hearing on the 2010 Tax Budget with no questions from the public or council, Mr. Ansel felt the resolution could go to third and final reading.

Mr. Ansel 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; Schuch-yes; Silvestri-yes and Ulbright-yes).

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

VII. NEW BUSINESS

None

VIII. MISCELLANEOUS

Mr. Ulbright expressed pleasure at the citizen participation at the meeting.

Mr. Ansel too acknowledged the public involvement and interest. He also introduced in the audience a foreign exchange student from Sweden and thanked him for his attendance at the meeting.

Mr. Silvestri was encouraged to see the public involvement and interest in preserving the family atmosphere in downtown Wooster.

IX. ADJOURNMENT

Mr. Buytendyk moved, seconded by Mr. Henery, to adjourn. Motion carried and meeting so adjourned at 8:45 p.m.

David J. Silvestri
Acting President of Council

Cheryl K. Collins
Clerk of Council