

**CITY COUNCIL MINUTES**  
**March 16, 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, Ed Schuch, David Silvestri, Jeff Steiner and Jon Ulbright.

Mr. Silvestri opened up the floor for nominations to fill the unexpired term of Keith Topovski, Ward 2 Councilperson, who resigned March 2, 2009. Mr. Ulbright moved, seconded by Mr. Schuch, to nominate Barbara Hustwit, for the second time, to serve as Ward 2 Councilperson until the end of 2009. Council members each cited reasons for their votes. Mr. Silvestri wanted to clarify his vote was not about politics or party. To him it was about decency, respect and willingness to work with others for the sake of the community and he believes the candidate lacks all those things. Mr. Ulbright read a section of Keith Topovski's letter recommending Barbara Hustwit to fill his vacated Ward 2 seat. Mr. Ulbright also posed several questions as to how the nomination was handled and considered. He asked council to get on with the monumental and precious task and elect Ms. Hustwit to serve Ward 2 for the next 9 months. Mr. Ansel felt this issue had been handled at the last council meeting. He justified voting against the nomination due to Ms. Hustwit's lack of professionalism and disruptive demeanor, as well as overwhelming feedback he had received opposing her nomination. He also highlighted Ms. Hustwit's absentee attendance record for her last three years serving on city council. Mr. Ansel confirmed there had been another contested council nomination in 1977 and showed the Daily Record article pertaining to it. Mr. Steiner stated he did not deny Ms. Hustwit was a qualified candidate, however his vote on the appointment was weighed on Ms. Hustwit's prior service, her temperament and judgment and also documented data he had received. Based on all of this, Mr. Steiner stated he would not and could not vote for Ms. Hustwit's appointment and that Ward 2 residents will have the opportunity to make their own assessment in the Fall. Mr. Buytendyk stated his reasons for voting no on Ms. Hustwit's nomination had nothing to do with her political affiliation but rather were related to a pattern and course of conduct unbecoming for that of a council person. Mr. Buytendyk displayed and cited a poster of a blog Ms. Hustwit posted on the Daily Record's website on January 15, 2008. Mr. Buytendyk stated he will not and cannot have any part of supporting someone who behaves in such a manner and will not do so just because it is politically expedient or popular and found it repugnant that he had to do so twice. Mr. Schuch commented that he had the pleasure of serving with Ms. Hustwit on City Council for two terms. He stated he did not always agree with the position she took, but at no time did he feel she was taking a position that was detrimental to the citizens of Wooster. He found her to be reasonable, however obstinate at times, but he had no problem working with her. Upon roll call, motion failed 4-2 (Ansel-no; Buytendyk-no; Schuch-yes; Silvestri-no; Steiner-no and Ulbright-yes).

**II. APPROVAL OF MINUTES**

Mr. Steiner moved, seconded by Mr. Buytendyk, to approve minutes of the March 2, 2009 meeting. Upon voice vote, motion carried unanimously.

**III. COMMUNICATIONS FROM MAYOR/ADMINISTRATION**

Mayor Breneman updated council on various activities in the city

**IV. PETITIONS/COMMUNICATIONS FROM PUBLIC**

The following members of the audience spoke regarding the nomination of Barbara Hustwit to City Council: Kathy Turning (518 Forest Creek); Clyde Crabtree (2452 Barrington 404); Lupe Williams (1544 McNutt); Janet Crook (534 Williamsburg Ct., #B); Elizabeth Sheets (832 Arbor); Greg Gehris (347 N. Grant); M. Blake Stone (1655 Sandalwood) and B. Jean Mohr (3901 Batdorf).

**V. COMMITTEE REPORTS; PUBLIC HEARINGS**

Public Hearing: Proposed amendments to the Planning and Zoning Code creating a new AG (agricultural) zoning district

Mr. Buytendyk opened the public hearing and explained the Planning Commission recommended that an Agricultural Zoning District (AG) be added to the Planning and Zoning Code, which was inadvertently left out when the zoning code was updated. City Council initially requested the Planning Commission look into adding the AG zone and they subsequently agreed there was a need. The AG district would allow properties to come into the city of Wooster without any expectation as to what they might ultimately become or be zoned. There was no public comment and Mr. Buytendyk closed the public hearing.

## **VI. OLD BUSINESS**

1. Third Reading - RESOLUTION NO. 2009-32 REQUESTING THAT THE PLANNING COMMISSION, PURSUANT TO WOOSTER CODIFIED ORDINANCE SECTION 1119.04, REVIEW AND CONSIDER PROPOSED TEXT AMENDMENTS TO THE PLANNING AND ZONING CODE TO MERGE THE BOARD OF ZONING APPEALS WITH THE BOARD OF BUILDING APPEALS (Buytendyk)

Mr. Buytendyk noted the resolution was on its third reading. He stated the proposed change, to merge the two boards, was a suggestion from the administration. The Board of Building Appeals seldom meet and the issues they look at are very similar to those the Board of Zoning Appeals review. It is believed that issues could be expedited if matters were brought before one combined board.

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

2. Second Reading - ORDINANCE NO. 2009-07 AMENDING PART ELEVEN, PLANNING AND ZONING CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF WOOSTER, OHIO, BY THE ADOPTION OF AN AGRICULTURAL ZONING DISTRICT FOR THE ZONING OF AGRICULTURAL LAND THAT MAY BE ANNEXED INTO THE CITY WITHOUT ANY SPECIFIC DEVELOPMENT PLANS OR INTENTIONS (Buytendyk)

Mr. Buytendyk noted the resolution was on second reading and is a companion to the public hearing that was held earlier in the meeting. He stated this is basically the culmination of a process that started with the McCoy farm annexation at which time it was discovered there was no agricultural district within the zoning code. This prompted a resolution from City Council asking the Planning Commission to review the Planning and Zoning Code and they decided an Agricultural Zoning District (AG) was needed.

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; Schuch-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

Mr. Ulbright asked Mr. Sigg to explain the advantage of having an AG designation for un-zoned agricultural land on the peripheral of Wooster as opposed to being given an R-1 designation. Mr. Sigg explained the AG designation would allow the farm to operate as is. Currently, if there is not a specific plan for newly-zoned land, it is zoned R-1 which is the most restricted zoning, which could give a false sense of security for those looking to develop or purchase the property adjacent to it.

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; Schuch-yes; Silvestri-yes; Steiner-yes and Ulbright-yes).

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

## **VII. NEW BUSINESS**

1. First Reading -           **ORDINANCE NO. 2009-09 AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT FOR AN ENCROACHMENT UPON THE PUBLIC RIGHT-OF-WAY, AND DECLARING AN EMERGENCY (Ulbright)**

Mr. Ulbright stated the owner of the building located at 116/118 S. Market Street has initiated improvements to the building which require encroachment into the public right of way to meet the building code. In addition, adjacent buildings from 115 Liberty and 128 S. Market Street have existing encroachments for stairs and other items that have existed for many years at these locations. These encroachments are located within the public right or way, but in an existing sidewalk area adjacent to a parking lot. Mr. Ulbright explained this legislation will allow the city to grant a 6 foot wide easement for the existing 12 foot wide sidewalk, which would leave sufficient room for the passage of pedestrians, and would encompass all other encroachments along the sidewalk between 115 Liberty and 128 S. Market Street. The easement also has certain pull back powers as mentioned in Section 1of the legislation. Mr. Ulbright felt this change was in the spirit of economic development as we want to see these types of improvements happening in downtown Wooster. Mr. Montgomery made additional comments and indicated much time and investigation had been put forth towards this.

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

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

2. First Reading -           **RESOLUTION NO. 2009-39 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A CONTRACT WITH THE FINLEY FIRE EQUIPMENT COMPANY OF MCCONNELSVILLE, OHIO FOR THE PURCHASE OF SCOTT AIR-PAKS, AND DECLARING AN EMERGENCY (Steiner)**

Mr. Steiner stated this is a critical piece of equipment for the fire department. It is a budgeted item on a regular replacement schedule determined by the National Fire Protection Standards. This particular bid is the lowest and best bid that was obtained.

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

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

3. First Reading -           **RESOLUTION NO. 2009-40 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO SELL PUBLIC PROPERTY, TO-WIT: ONE GROUT MACHINE, AND DECLARING AN EMERGENCY (Ulbright)**

Mr. Ulbright stated the grout machine is undersized for the kind of work that needs to be done on our streets and the maintenance division is recommending that it be put up for sale. Estimated value is in the range of \$8000 and the money would go back into the general fund to be used for other purposes rather than owning a piece of equipment which is not being used.

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

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

4. First Reading - RESOLUTION NO. 2009-41 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO PURCHASE VEHICLES IN ACCORDANCE WITH THE CAPITAL PLAN FOR 2008, AND DECLARING AN EMERGENCY (Steiner)

Mr. Steiner stated this resolution is for the purchase of two 2009 Ford police cruisers to replace two 2006 Ford police cruisers. The vehicles are on a three year rotation schedule to keep maintenance costs low and on the road. This is a budgeted item and the vehicles will be purchased at Pallotta Ford who meets the State bid price. Mr. Ulbright questioned why Fords are being purchased and not another vehicle make. Chief Glick explained the Ford Police Interceptor sedans are rear wheel drive, ease of transferring equipment between Ford models, large trunk space and a good past record.

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

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

### **VIII. MISCELLANEOUS**

Mr. Schuch suggested that Mayor Breneman resurrect the city garden program.

Mr. Ulbright indicated he failed to pass out a one page summary of Barbara Hustwit's accomplishments while serving on City Council and if anyone wished to have a copy they could contact him. He apologized that he did not object to the public not being able to speak before the nomination vote.

Mr. Silvestri understood there was displeasure with the order of business at this evening's meeting, whereas the audience did not get a chance to speak before the vote was taken on the nomination to fill the vacant council seat. He announced that any registered Democrats residing in Ward 2 who would be interested in the opportunity to serve their community on City Council for the remaining nine months of 2009, should contact Cheryl Collins, City Council Clerk, no later than Monday, March 23, 2009. If necessary, a special council meeting will be scheduled to nominate someone to fill the vacant Ward 2 council seat.

The following member of the audience spoke regarding the Ward 2 seat nomination and also the replacement of police cruisers: Greg Gehris (347 N. Grant).

### **IX. ADJOURNMENT**

Mr. Buytendyk moved, seconded by Mr. Ansel, 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