

CITY COUNCIL MINUTES
March 21, 2005

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

Ms. Mitten stated that the agenda would stand as presented. Mr. Topovski moved, seconded by Mr. Buytendyk, to approve the March 7, 2005 minutes as received. Motion carried.

Mr. Ulbright called to order a public hearing to consider the vacation of a 16 ft. alley running in a north/south direction parallel to and west of Beall Avenue from Nold Avenue to the unnamed 20 ft. east/west alley north of Nold Avenue. Mr. Ulbright stated that the petition had been signed by property owner of all the contiguous lots bordering the alley. Mr. Drushal stated that he was present on behalf of Larry's Music Center owned by Larry Lang, owner of the property immediately to the south of the property in question to speak against the alley vacation. Larry's Music Center is adamantly opposed to this as this alley was crucial for access to his rear door which was used for deliveries and pick-ups from his business. Paul Quinn, representing RTM (Arby's Restaurant Group), stated that RTM was an Arby's franchise and their company was under contract to purchase this property which was part of a bank portfolio as the property had gone into foreclosure and had been vacant for some time and was quite an eyesore. This is a one-way alley and it runs from the 20' public alley between the Hardee's property and the KFC property and Larry's Music Store. If you turn down Nold Avenue, there were several curb cuts along Nold for access to Larry's Music. The alley behind Larry's Music would still stay open and we are requesting the portion behind our property only to be vacated. As far as deliveries to the back door, that door was blocked by an air conditioning unit and there wasn't a sidewalk going to that back door so he wasn't sure how that could be a delivery entrance. It appeared that deliveries might be made on the south side of the building where a door is located at the Nold Avenue entrance. It seemed feasible that deliveries could still be made from Nold Avenue to this location. Mr. Quinn provided council with copies of their proposed layout for the restaurant and explained the plans they had to renovate the building and the parking lot to enhance the flow of traffic. Public hearing was closed.

Ms. Mitten stated that council had received a letter asking that Jim Lanham be appointed to the Income Tax Board of Review to fill the vacancy created when Mr. Buytendyk became a city council member. Mr. Breneman moved, seconded by Mr. Topovski, to approve the appointment. Motion carried.

Scott Wiggam stated that he had signed in to speak just in case he was needed to speak about the sewer line along Canal Road. The following people spoke in favor of the proposed sewer line: Paul Slack, Human Resources Manager for Tekfor; Lynn Johnson, VP of Operations at Tekfor. The following people spoke in opposition of the sewer line: Norman Adkins; Kyle Lang; Kelly Lang Rhodes; Greg Cantrell; Jim Richard, attorney representing the Langs. Duane Wood, soil scientist with Wayne Soil and Water, spoke about the soil compaction issue and how this sewer line might affect future crop harvests.

Mr. Topovski stated that the City had been approached by the Humane Society to see if we had any interest in restoring our contract as it previously existed and asked for the members of his committee to look at their schedule for a date when we could sit down with people from the Humane Society to discuss this. He also asked Mr. Breneman as finance committee chair to look at the budget to see whether there were monies available if we decided it was in the best interests of the city to support their organization.

Mr. Griffin stated that last Monday the Public Utilities committee had met to discuss Resolution 2005-20 which was the first order of old business this evening, the Canal Road gravity sewer line proposal. The meeting was well attended with a lot of questions and a lot of information put forth. We will continue with the three readings for this resolution.

Mr. Breneman stated that he would like to have a Finance Committee meeting next Monday, March 28 at 5:00 p.m. in council chambers to discuss the revamping of the bed tax application process and to discuss the city's finances during the first quarter of this year's budget.

Resolution No. 2005-20 authorizing the Mayor to pursue appropriation of certain rights-of-way from property owners adjacent to or abutting the Canal Road area for purposes of proceeding with the improvement thereof, and declaring an emergency was read by title, being on second reading. Mr. Griffin stated that none of us take this decision lightly as it was an emotional one with lots of opinions and variables but in looking at the facts of planning for the city, it was our job to base this on the merits of those facts. Eminent domain was nothing new and neither was the human emotion associated with it; it was guaranteed in the United States constitution and the State of Ohio constitution. Cities, states and our country have built highways, dams, schools and certainly crucial public works projects based on eminent domain. Obviously not the most desirable route to go but at times necessary. Mr. Griffin stated that the necessity of this project was clear to him and some of the major points which highlighted his support were: the development of this planned industrial area was crucial for employment and economic development in Wooster and was an area identified for industrial growth; the proposed gravity sewer line would put us in a position to deliver full sewer services to Wooster homeowners in the area which was an obligation and duty of ours; the gravity sewer line would provide all the capacity necessary for the area for current and future growth and would be a huge advantage to the recruitment of more industry or expanding industry; the current lift station was maxxed out and we have experienced two overflows already; upgrading and maintaining the lift station was not a good short or long term plan and it's no comparison to the benefits provided through a gravity sewer line and finally, we do have the permit to install. The bottom line is that we need to address the greater public good which is what brings us to eminent domain. This is a huge opportunity for this city council to get behind the planned development of this area and he hoped that we were ready to meet this challenge and he urged everyone to consider what he had presented and be prepared to vote in the affirmative two weeks from tonight.

Mr. Ulbright asked Mr. Montgomery if he would once more comment on the feasibility of using an alternative route for this sewer line running north of the railroad in a westerly direction. This was discussed at length.

Resolution No. 2005-23 authorizing the Mayor to issue payment to the Wayne Development Council for economic development services was read by title, being on second reading. Mr. Breneman stated that everyone should have received an amended version of this resolution; the only change was in Section 2 where we added, "the amount of such payment will not exceed \$20,000, the amount which has been appropriated for this purpose in the General Fund." This was the city's piece in contributing to the economic development puzzle and we've been involved in this for at least the past decade. There's been some exciting news since our last meeting, that being that we have a new president of Wayne Economic Development Council and he was present tonight. His name is Rodney Crider and we welcome him to Wooster and wish him the best of luck. Mr. Breneman gave a short synopsis of Mr. Crider's qualifications. 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. Griffin, to adopt. Upon roll call, motion to adopt carried unanimously.

Ordinance No. 2005-7 accepting application for annexation of territory located on the west side of Mechanicsburg Road, north of Silver Road, and contiguous to the present corporation limits (Attorney J. Douglas Drushal, Agent for Petitioners Lon and Melanie Vinion; Patricia A. Rodgers; and David H. Cullis) was read by title, being on first reading. Mr. Buytendyk stated that it was his understanding that there was a law firm existing on the present property and this had come to council previously with regard to the services we could provide. This was a business that would generate tax revenues to the general fund where we need it the most. Mr. Buytendyk moved, seconded by Mr. Breneman, to suspend the rules and place on third and final reading. Upon roll call, motion carried. Mr. Buytendyk moved, seconded by Mr. Silvestri, to adopt. Upon roll call, motion to adopt carried unanimously.

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 first reading. Mr. Ulbright asked Chief Thornton if the alley were vacated, could access and deliveries be made to Larry's Music at the lower end of the alley at Nold? Would that be possible without creating a safety problem on Nold? Chief Thornton stated that he hadn't seen semi trucks going into there; most of them were smaller trucks. Mr. Lang stated that some of the trucks were UPS, some RPS and few larger trucks; obviously there's not room for a semi. Typically a truck would turn onto the alley between KFC and the former Arby's and then south on this alley we're talking about then out onto Nold. Mr. Lang felt that it would lessen the value of his property if there wasn't a viable means for deliveries. He planned to move to E. Liberty Street, so it wouldn't affect him but it would affect a potential buyer or lessee of his building. Chief Thornton stated that he didn't think it would be a problem if trucks came in from Nold even if they had to block part of it for a short period of time. Discussion followed and because of the contention between the two parties, it was the consensus of council to leave this on first reading.

Resolution No. 2005-24 authorizing the Director of Administration to enter into a contract with Verizon Wireless for specialized technology, the purchase of cellular phone services, and declaring an emergency was read by title, being on first reading. 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. Topovski, to adopt. Mr. Breneman stated that our city and most of the country runs on cell phones; it's the most efficient way of

communication these days compared to the two-way radios. We are currently with Alltel and that contract expires March 31, thus the reason for moving this forward. The back of the resolution states the estimated total cost of \$3279 per month for basic service and it was budgeted. This amount was less than what we were paying to Alltel and this contract was a month to month contract being a government service price so we're not tied into a two-three year contract as required with Alltel. Upon roll call, motion to adopt carried unanimously.

Resolution No. 2005-25 authorizing the Director of Administration to enter into a contract for the construction of a new restroom facility at Wooster Memorial Park, and declaring an emergency was read by title, being on first reading. Ms. Cavin stated that this wasn't an emergency so she planned to leave this on first reading. She would like everyone to remember that we have already committed to spend more than the capital budget for parks and recreation at Freedlander Pool so in light of the impending finance committee meeting, this might be a topic of discussion. Mr. Decker stated that Wooster Memorial Park consists of 250-acre nature park that has currently one set of dugout primitive restrooms; wooden structures over an earthen pit. There are environmental issues there we don't want to deal with and those two structures are back in the woods and we feel there were safety issues involved. We've done some research and the information you see in front of you is a solid concrete structure that's brought in as an assembled piece and sits on top of two 1,000-gallon polyrind vaults. They're nearly vandal proof; they can't be burned or knocked down and the color was impregnated through the concrete so even if they're chipped they don't lose the color. This was actually cheaper than building a structure and the only long-term cost would be the pumping of those vaults by a septic company and these vaults were rated at 15,000 uses each prior to having to pump them. Mr. Decker stated that there was an insurance check deposited years ago from an education center that had burned down and was never replaced so we can use that money for these restrooms. A short discussion followed.

Resolution No. 2005-26 authorizing the Director of Administration to purchase a skid steer unit for the Parks and Recreation Department, and declaring an emergency was read by title, being on first reading. Mr. Cavin stated that she was leaving this on first reading for the same reason as the last resolution. Mr. Decker stated that Council had been provided with a brochure showing what the skid steer unit would look like; it was a front-loading excavation piece of equipment. The reason we need this was that the last two years, we've spent approximately \$7500 in rentals of this type of equipment and rentals were never a good investment. If we are using rentals that in a four-five year period we could have purchased one anyway, that's a better investment on the part of the city. The gap filled by this piece of equipment was that we currently have 4 x 4 Steiner traction units that have a small scoop unit on the front and the capacity of that scoop was about 500-700 lbs., the next step up we have available is the front end loader backhoe that we borrow regularly from the maintenance division. We don't want to purchase another one of those so this gives us an intermediate piece of equipment that would fill the gap between those two pieces. Mr. Ulbright asked if they had looked at purchasing a used piece of equipment. Mr. Decker said absolutely, as a matter of fact, we have checked into that as well. The one concern he had was dealing with the fact that as we approach this to look at a used unit right now and price it out, go through three readings of council, that unit might not still be available.

Miscellaneous

Paul Quinn with the Arby's restaurant group wanted to reiterate the full scope of what was going on with this alley vacation. Mr. Quinn felt that they had met all the guidelines, which had been spelled out by Ms. Mitten earlier in the meeting. The question was whether or not there would be any impact to a neighboring building and the testimony given so far appears to center around the fact they need that alley for deliveries. Mr. Quinn handed out to council pictures of the property showing the back alley as well as the back of the building that clearly shows there were no delivery doors on the back of this building. He recommended that Council take a look at the alley and the building and decide for themselves how this vacation would affect that business. We would like to be a good neighbor; we have designed our site to keep that area open and we're not planning on blocking it off so it comes to a dead end at the corner of Mr. Lang's property. Mr. Quinn said that early on in trying to acquire this property, there were offers made between our company and our next-door neighbor but for one reason or another, those offers never came to fruition.

Mr. Lang stated that it wasn't his business necessarily that they were discussing as he was moving his business to 302 E. Liberty. Mr. Quinn had just said there were numerous offers made back and forth that had not worked out; however, about a year ago someone from their company made a call to him asking if he would be interested in selling his location as they wanted the whole corner. He had told them that he would consider moving if they would find a property that would be acceptable to him and affordable for them. We negotiated through Jack Gant a three-way deal; he had a letter of intent from them, which stated a dollar figure. We accepted it but they yanked it off the table and said they decided to go without his property and planned to ask the city to vacate the alley.

Ms. Rhodes stated that one of the main reasons that the city needed the sewer along Canal Road was to service Geyers Chapel Road, so why wasn't that being done immediately. Mr. Montgomery stated that was one of the reasons why we need the sewer to go the route we are proposing. Regardless of whether those people have failing sewers or not, it was in our 201 plan to sewer that area. Neither the health department nor the EPA has called us to mandate the installation of the sewer. When that happens, we will need to be able to do that.

Kevin Lang stated that he had spoken to 17 homeowners on Geyers Chapel Road and of those, only one wanted city sewer. Also, some of the homeowners up there live down an alley that's all mud and dirt and have tried to get the city to come out and put gravel down and they can't get that. These people living in the city were also concerned that the city sewer hook-up would cost them \$3500 per home and that was without water.

Bob Wirth stated that he lived on the Pearce farm along Canal Road and asked how many of the council members had actually went out to look at the property in question. Most of the members raised their hand. Mr. Wirth wanted to discuss yet another alternate route for the sewer and lift station.

Kyle Lang spoke to the issue of yields on farmland affected by this type of project. Mr. Lang stated that he had a study done by an agricultural engineer at OSU regarding the compaction and

its affect and the study showed that it decreases yield by up to 14% per acre, which estimated out to about 30 bushels of corn using corn as your crop. After a time period of 10 years, it still estimated out at a 14% loss, so you're talking multiple years.

Mr. Topovski asked Mr. Quinn what Arby's would do if this alley were not vacated? Mr. Quinn stated that purchase of the property had not been completed and wouldn't be until we had site plan approval, health department permits, etc. He said that he did not make those types of decisions; that would entail redesigning the entire site and whether or not we will have the amount of parking spaces we need if the alley weren't vacated. Mr. Topovski stated that he would like an answer to that question if possible.

Mr. Silvestri stated that a while back, we had a safety committee meeting regarding reverse 911 which would be an option we could pursue to make citizens more aware of emergency situations all at once. He was open to suggestions regarding this process.

Ms. Mitten thanked Chief Thornton for an excellent annual report; it was nice to see what types of calls the patrolmen serviced to our citizens and also she was glad to see that all the officers receive continuing training.

Mr. Ulbright stated that on his way to city council tonight, he noticed that there were seven streetlights out and wondered who should be notified of that. Mr. Sigg stated that the city does notify AEP of those outages so call his office to report the location of lights that were out or blinking on and off.

Mr. Breneman stated that he had received a complaint about the light at Long Road and Route 585 that when a car approaches on Long Road, it trips the light and backs up the traffic on Route 585. Since Rubbermaid is no longer in operation, perhaps we could revisit that timing. Mr. Breneman thanked council for passing the legislation for WEDC; that was money well spent on our part. Mr. Breneman suggested that Ms. Mitten might invite Mr. Crider to make a presentation at one of her 7:00 meetings once he was settled in.

Mr. Buytendyk moved, seconded by Mr. Ulbright, to adjourn. Motion carried and meeting so adjourned at 9:45 p.m.

Judith K. Mitten
President of Council

Sheila Stanley
Clerk of Council