

CITY COUNCIL MINUTES
May 19, 2008

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. The following members were present: Jon Ansel, Mike Buytendyk, Ed Schuch, David Silvestri, Jeff Steiner, Keith Topovski and Jon Ulbright. Mr. Silvestri asked everyone to rise and join in the Pledge of Allegiance.

II. APPROVAL OF MINUTES

Mr. Steiner moved, seconded by Mr. Ansel, to approve the minutes of the May 5, 2008 meeting.

III. COMMUNICATIONS FROM MAYOR/ADMINISTRATION

Mayor Breneman updated council on various activities in the city. He also welcomed David Silvestri as City Council's new Acting President and congratulated Jeff Griffin on his new position as President of the Wooster Area Chamber of Commerce. Mayor Breneman reported that the Dogwood Dinner Dance, held May 17th, was a success, honoring the city's Bicentennial and also memorializing past Mayor Jamie Howey.

Mr. Sigg distributed a memo and further explained an incident at Christmas Run Park involving the EPA. He also mentioned that the refuse/recycling bid was awarded to Waste Management. A notice will be issued for trash collection rates which will increase from \$12.10 regular/\$10.75 seniors to \$15.11 regular/13.41 seniors. The recycling process was bid both ways 1) the bin system, which cost would be slightly higher but less than 1% and 2) the blue bag system, which is currently being used. He asked council and the public to weigh in on their thoughts as to recycling preference. Mr. Sigg also updated council on the Beall Avenue Streetscape III project.

Mr. Benson indicated he had spoke earlier with Mr. Buytendyk and asked him to consider tabling Ordinances 2008-14 and 2008-15. Last year the legislature amended Ohio law to provide that the Attorney General's office has authority to review such regulations. If the AG's office reviews the legislation, comments and approves, it will limit liability in the event of a future law suit. Therefore Mr. Benson suggested tabling the ordinances for 30 days so they can be referred to the AG's office.

Mayor Breneman noted the 2009 proposed tax budget must be submitted to the county by July 20, 2008. A copy of the budget will be presented to council at the next meeting and a public hearing will be held on June 16 to review it.

IV. PETITIONS/COMMUNICATIONS FROM PUBLIC

A notice was received from the Ohio Division of Liquor Control for the transfer of C1 & C2 liquor permits to Ohio Dream Team LLC, DBA Wooster BP, 310 S. Market Street, from Anouar Zanati, DBA Zanati BP, 310 S. Market Street. Mr. Ansel moved, seconded by Mr. Steiner, not to request a hearing. Upon voice vote, motion carried unanimously.

The following member of the audience spoke: Glen Flory, 529 N. Buckeye (Wooster PD issue).

V. COMMITTEE REPORTS; PUBLIC HEARINGS

Mr. Silvestri reported on the public meeting held at the OARDC prior to council meeting. Mr. Ken Cochran of the Secrest Arboretum gave council members a tour of the arboretum.

VI. OLD BUSINESS

1. Second Reading - ORDINANCE NO. 2008-14 AMENDING SECTION 1143.02 AND CHAPTER 1195 OF THE CITY OF WOOSTER PLANNING AND ZONING CODE, TO MAKE CERTAIN CHANGES TO THE ADULT USE REGULATIONS (Buytendyk)

Mr. Buytendyk stated there is a provision under Title VII of the Ohio Revised Code that imposes a penalty on municipalities who institute sexually oriented business provisions that do not meet requirements under Ohio law. As part of this provision they provide that ordinances passed or contemplated to be passed by municipalities can be reviewed by the Attorney Generals office to make sure they meet existing law and by doing so minimizes the

penalties that could be imposed upon municipalities if a business feels that the ordinance doesn't correctly reflect the existing law. Based on that, Mr. Buytendyk moved, seconded by Mr. Topovski, to table the ordinance pending review by the Ohio Attorney General's office. Upon roll call, motion carried unanimously (Ansel-yes; Buytendyk-yes; Schuch-yes; Silvestri-yes; Steiner-yes; Topovski-yes and Ulbright-yes).

2. Second Reading - ORDINANCE NO. 2008-15 AMENDING CHAPTER 731 OF THE CODIFIED ORDINANCES OF THE CITY OF WOOSTER, OHIO TO PROVIDE FOR THE LICENSING OF SEXUALLY ORIENTED BUSINESSES AND TO MAKE CERTAIN CHANGES TO THE REGULATIONS GOVERNING SEXUALLY ORIENTED BUSINESSES IN THE CITY (Buytendyk)

Mr. Buytendyk moved, seconded by Mr. Steiner, to table the ordinance pending review by the Ohio Attorney General's office. Upon roll call, motion carried unanimously (Ansel-yes; Buytendyk-yes; Schuch-yes; Silvestri-yes; Steiner-yes; Topovski-yes and Ulbright-yes).

3. Second Reading - RESOLUTION NO. 2008-55 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A CONTRACT(S) FOR THE REPLACEMENT OF THE SIDEWALK ON THE WEST SIDE OF THE ROAD, BETWEEN BURBANK ROAD AND WAYNE AVENUE, AND DECLARING AN EMERGENCY (Ulbright)

Mr. Ulbright stated negotiations to replace this sidewalk have been going on for sometime and the city feels this is the best settlement that can be reached. Total cost of the sidewalk repair is approximately \$35,000 of which the city will pay \$30,000 and the property owner \$5,000. Mr. Ulbright noted the good part about the city paying the lion's portion of the repairs is knowing the sidewalk will be constructed properly this time and that guardrails will also be installed, making a safer area for pedestrians and vehicles. 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; Topovski-yes and Ulbright-yes). Mr. Ulbright moved, seconded by Mr. Topovski, to adopt. Upon roll call, motion to adopt carried unanimously (Ansel-yes; Buytendyk-yes; Schuch-yes; Silvestri-yes; Steiner-yes; Topovski-yes and Ulbright-yes).

VII. NEW BUSINESS

1. First Reading - ORDINANCE NO. 2008-17 DECLARING THE EXISTENCE OF A PUBLIC NUISANCE WITH RESPECT TO THE RAILROAD CROSSING LOCATED ON WEST OLD LINCOLN WAY IN THE CITY OF WOOSTER, AND THE CORRESPONDING NECESSITY FOR MAKING REPAIRS THERETO, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Ulbright stated this situation was brought to the city's attention a few months ago by a citizen who attended council meeting. The poorly kept railroad crossing is located on old US 30 West, 500 feet west of the driveway serving the Frito Lay plant and about 1,900 feet east of the intersection of Old Mansfield Road. Mr. Ulbright indicated the crossing is a safety hazard with large holes in the surface. The owner of the railroad crossing is R.J. Corman, based in Nicholasville, Kentucky, with a branch in Dover, Ohio. Ohio law, at RC §4955.20 states railroad companies are responsible for keeping crossings in good repair. R. J. Corman was notified by the city of the crossing's condition but negotiations broke down over whose responsibility it was to establish a detour route while repair work was being done. Since that time Mr. Benson has sent correspondence to R. J. Corman but has received no response. Mr. Ulbright explained this ordinance is an attempt to get some movement on the part of the company as once they are officially notified, they will have 30 days to comply. If they don't comply within that time period than the city will make the necessary repairs and seek to recover costs from the railroad company. Mr. Benson explained the situation further and Mr. Ansel indicated he felt egos and emotions were involved in the decision making process. 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; Topovski-yes and Ulbright-yes). Mr. Ulbright 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; Topovski-yes and Ulbright-yes).

VIII. MISCELLANEOUS

Mr. Schuch would like the city administration to look into a ponding issue on the north side of W. Henry Street, before Columbus Road. He also questioned if the current emergency warning system is sufficient for the entire city and if the sirens are ever tested. Mr. Sigg indicated he will get Mr. Schuch a full report of testing requirements.

Mr. Ulbright urged citizens of Wooster to join in celebrating Wooster's Bicentennial by keeping their yards mowed and properties well kept this summer.

IX. ADJOURNMENT

Mr. Buytendyk moved, seconded by Mr. Ansel, to adjourn. Motion carried and meeting so adjourned at 8:15 p.m.

David J. Silvestri
Acting President of Council

Cheryl K. Collins
Clerk of Council