

CITY COUNCIL MINUTES
October 5, 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, David Silvestri, Jeff Steiner and Jon Ulbright. Ed Schuch was absent.

II. APPROVAL OF MINUTES

Mr. Steiner moved, seconded by Mr. Buytendyk, to approve minutes of the September 21, 2009 meeting. Upon voice vote, motion carried unanimously.

III. COMMUNICATIONS FROM MAYOR/ADMINISTRATION

Mayor Breneman updated council on various activities in the city: Joe Palermo, former Safety Administrative Officer for the Wooster Police Division (1968-1992), passed away. The Mental Health Coalition was awarded a combined service project award from the Rotary, Kiwanis & Noon Lions Clubs. Road construction project update. Mayor Breneman asked council to consider adjourning into executive session at the end of the meeting to consider the purchase of property.

IV. PETITIONS/COMMUNICATIONS FROM PUBLIC

The following member of the audience spoke: Bill J. Wallace, 5621 Bechtel Rd. (Beall Avenue Streetscape project).

Two notices for new D5L liquor permit applications were received from the Ohio Division of Liquor Control. Privileges for a D5L permit are sale of beer and intoxicating liquor at retail by the glass or container for on premises consumption until 2:30 a.m. (retail food establishment or food service operation meeting certain criteria).

Muddy Waters Coffee Café LLC, DBA Muddy Waters Café, 146 E. Liberty Street, applied for a new D5L liquor permit. Mr. Ulbright moved, seconded by Mr. Henery, not to request a hearing. Upon voice vote, motion carried unanimously.

Wooster Foods Inc., DBA CIAO Bella, 150 W. Liberty Street, applied for a new D5L liquor permit. Mr. Ansel moved, seconded by Mr. Steiner, not to request a hearing. Upon voice vote, motion carried unanimously.

V. COMMITTEE REPORTS; PUBLIC HEARINGS

1. On behalf of the Infrastructure Committee, Mr. Ulbright asked Chuck Malta, Parks & Recreation Manager, to summarize future plans for the soccer fields. Mr. Malta informed council of an upcoming opportunity concerning improvements to the soccer field complex on the Kinney property. With the growth of the soccer program they have experienced problems that need to be addressed. They propose to add restroom facilities, construct a concession building, install a waterline along Burbank Road, expand the parking area and add three new soccer fields. Mr. Malta indicated plans are to approach the Wayne County Commissioners, who own the Kinney property, for permission to proceed; formalize a partnership with the Wooster Soccer Association who have committed a \$50,000 donation to fund a portion of the improvements; and formally request approval from City Council.

2. PUBLIC HEARING – Amendments to Zoning Code to merge the Board of Zoning Appeals (BZA) with the Board of Building Appeals (BBA).

Mr. Buytendyk opened the public hearing and explained the purpose for merging the two boards into a single board. In many cases the duties of the boards dovetail, BBA does not have much business come before them and volunteers are necessary to fill the membership of both boards. Mr. Buytendyk believes it makes sense to streamline the administration of the city business to merge the BZA and BBA and run them as a single board rather than maintain two separate boards. Speaking on behalf of the Planning Commission, Mr. Sigg confirmed their unanimous decision to recommend merging the two boards. Mr. Ulbright questioned if members of the boards

would be merged together. Mr. Sigg explained that in practicality that already exists as current boards have the same members with all wards represented and the two meetings are held back-to-back at 5:00 and 5:30. No one will lose their position on either board. There being no further comments from council members or the public, Mr. Buytendyk closed the public hearing.

VI. OLD BUSINESS (none)

VII. NEW BUSINESS

1. First Reading - ORDINANCE NO. 2009-26 AMENDING ORDINANCE NO. 2008-28 BY IDENTIFYING AND AUTHORIZING A NEW MANAGEMENT POSITION (Buytendyk)

Mr. Buytendyk indicated the city administration wishes to establish the title of City Planner as a new classified management position replacing the unclassified Planning and Zoning Manager position, formerly held by Val Jesionek, which remains unfilled. The new position would allow more flexibility in regard to salary and job duties, making the operation more efficient by eliminating job duplication and focusing more on design review. Mr. Sigg and Mr. Monea explained how functions and duties are being consolidated with the building division allowing more time to be devoted towards planning issues. Mr. Buytendyk indicated he would leave the ordinance on first reading.

2. First Reading - ORDINANCE NO. 2009-27 AMENDING PART 11, PLANNING AND ZONING CODE, AND PART 13, BUILDING CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF WOOSTER, OHIO (Buytendyk)

Mr. Buytendyk explained this ordinance is the detail work with regard to the public hearing held earlier in the meeting, to merge the duties of the Board of Zoning Appeals with the Board of Building Appeals. An attachment to the ordinance highlighted the changes to be incorporated. The action would streamline the ordinance and allow the merger of the two boards. Seeing the amount of information to be reviewed, Mr. Buytendyk indicated he would be leaving the ordinance on first reading.

3. First Reading - ORDINANCE 2009-28 AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE WOOSTER GROWTH CORPORATION FOR REAL ESTATE OWNED BY THE CITY AND NOT PRESENTLY NEEDED FOR ANY MUNICIPAL PURPOSE, AND DECLARING AN EMERGENCY (Ansel)

Mr. Ansel stated this is for administrative control of the south well field's agricultural use. There are three parcels, approximately 115 acres, which are controlled by the City of Wooster and Wooster Growth Corporation. For protocol and liability reasons, it is felt Wooster Growth should administer all commercial dealings, leases, real estate transactions, etc. Therefore, the city would like to lease this property to Wooster Growth, who will offer a competitive bid for the agricultural use of the parcels. Mr. Silvestri asked if the south well field agricultural area had been leased out in the past. Mayor Breneman indicated it has been leased to large farm operations for approximately \$16,000 a year.

Mr. Ansel 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. Ansel 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).

4. First Reading - RESOLUTION NO. 2009-73 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A CONTRACT WITH WHITAKER MYERS INSURANCE GROUP FOR MEMBERSHIP IN THE OHIO PLAN FOR PROPERTY AND GENERAL LIABILITY INSURANCE, AND DECLARING AN EMERGENCY (Ansel)

Mr. Ansel stated competitive plans were reviewed for the city's comprehensive liability insurance coverage funded through the general fund, water fund and the water pollution control fund. The prior year's insurance premium with PEP was approximately \$280,000. Based on competitive review this year and taking into account the city's risk prevention and limiting claims against the insurance carrier, the city was able to retain coverage under the Ohio Plan for \$200,000. A local company, Whitaker Myers Insurance Group, will retain the policy.

Mr. Ansel 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. Ansel moved, seconded by Mr. Silvestri, 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. 2009-74 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A CONTRACT WITH 360WATER, INC. FOR TECHNICAL SERVICES, TO WIT: THE DEVELOPMENT OF ON-LINE TRAINING SERVICES, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Silvestri stated this legislation is to authorize 360Water to continue the development of on-line training for the Water Pollution Control Plant, Water Treatment Plant, Collection and Distribution Systems. The 360Water company is the only on-line training provider that will customize courses to the city's specific equipment. This is a long term investment as training is necessary and can be passed along to other employees which will help in ensuring proper operations and maintenance procedures are followed. Also the on-line training should lower costs by allowing for less travel for continuing education training. A test curriculum will be created and customized for the waste water plant. Also when proposals are put out for new equipment and improvements to the plants, the city will be able to write in training requirements. Mr. Borton indicated this is a 5 year contract and explained how they will prioritize the development of the courses and the long term cross training goals. The budgeted cost is \$15,000 for the Water Pollution Control Plant and \$15,000 for the Water Treatment Plant.

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).

6. First Reading - RESOLUTION NO. 2009-75 AUTHORIZING THE DIRECTOR OF LAW TO EXTEND THE ENGAGEMENT OF OUTSIDE COUNSEL FOR REPRESENTATION WITH RESPECT TO NPDES PERMIT ISSUES, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Silvestri explained in 2007 the city appealed the proposed NPDES permit issued by the Ohio Environmental Protection Agency for the reason that some of its provisions were unachievable, unreasonable and unwarranted. Engaging the law firm of Schottenstein, Zox & Dunn as outside counsel is a summation of two things 1) helping step-by-step through the appeals process and 2) to provide representation in the event of legal action. The total cost of services is \$60,000 of which amount \$20,000.00 has been expended, and an additional \$40,000.00 is hereby appropriated from the unappropriated balance in the Water Pollution Control Fund. Mr. Silvestri noted that the EPA law is very complicated and for that reason the administration felt it necessary to retain outside counsel who specializes in this area. Mr. Benson explained there are two separate actions being treated as one. EPA is considering an enforcement action against the city for violations of the existing permit. These violations would have occurred during the construction and post construction phase of the improvements at the Water Pollution Control Plant. Apart from that, when the city's five year permit was expiring and a new proposed permit was being issued in 2007, the administration determined that there were provisions of that permit that were unreasonable or

unwarranted. At that time the city appealed the issuance of that permit and two years later, the appeal has still not been resolved through the EPA process.

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

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).

7. Mr. Steiner moved, seconded by Mr. Buytendyk, to go into executive session to discuss the purchase of property. Upon roll call, motion carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes). Council adjourned to executive session at 8:24 p.m.

Mr. Steiner moved, seconded by Mr. Ulbright, to adjourn from executive session. Upon roll call, motion carried unanimously (Ansel-yes; Buytendyk-yes; Henery-yes; Silvestri-yes; Steiner-yes and Ulbright-yes). Council adjourned from executive session at 9:10 p.m.

8. Mr. Silvestri noted the title for Resolution No. 2009-75 was incorrectly read as the language had been modified from “retaining outside counsel” to “extending the engagement of outside counsel”.

VIII. MISCELLANEOUS

Mr. Steiner commented on Chuck Malta’s presentation regarding the soccer fields improvements and noted that at the past two council meetings there has been great news regarding the city’s recreation facilities. He is pleased how the city has been coordinating between different entities for the various projects.

Mr. Ulbright requested that Mr. Benson summarize the memo that was sent out to residents living in the Enviro Clean area. Mr. Benson stated the consultants retained by the city will be in town on October 7 to meet with city administration and the owner of Enviro Clean and their attorney, Doug Drushal. The consultants will visit Enviro Clean where they will have the opportunity to walk through the business, look at the process, ask questions and lay out a plan for monitoring air quality at several different points around the area. Enviro Clean’s attorney made a request to the zoning board to continue the matter for another 60 days and the city joined in on the request to give the city’s consultants the opportunity diagnose the problem and make a report. Once that is done it will be determined whether or not the owner, having the benefit of that report, will be willing to follow through and in what time frame.

Mr. Buytendyk honored the passing of Joe Palermo, former Administration Officer for Wooster Police Department, by detailing his past accomplishments, noting he was a survivor of Pearl Harbor and mentioning his many good works during his career with the city. Mr. Buytendyk stated that a person like Mr. Palermo is what makes our community great as he gave his all to the citizens of Wooster whether serving as an employee or working for the many organizations he belonged to. Wooster is a better place because of Joe Palermo.

IX. ADJOURNMENT

Mr. Steiner moved, seconded by Mr. Ansel, to adjourn. Motion carried and meeting so adjourned at 9:20 p.m.

David J. Silvestri
Acting President of Council

Cheryl K. Collins
Clerk of Council