

CITY COUNCIL MINUTES
September 8, 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, Jeff Steiner and Jon Ulbright.

II. APPROVAL OF MINUTES

Mr. Steiner moved, seconded by Mr. Ansel, to approve minutes of the August 17, 2009 meeting. Upon voice vote, motion carried unanimously.

III. COMMUNICATIONS FROM MAYOR/ADMINISTRATION

Mr. Sigg updated council on various activities in the city. He passed along Mayor Breneman's support of Ordinance No. 2009-22, purchase of the Chase parking lot, as a very important piece of real estate for the development of downtown. The funds for this come from the Rubbermaid closing, the windfall/golden parachutes, which was set aside specifically for economic development projects. This purchase will allow Merchant Block to extend all the way to Walnut Street and will increase public parking in that area of town.

IV. PETITIONS/COMMUNICATIONS FROM PUBLIC

A letter of recommendation was received from the Planning Commission approving amendments to the Zoning Code in order to merge the Board of Zoning Appeals with the Board of Building Appeals. A public hearing was set for Monday, October 5, 2009 at 7:30 p.m.

A notice was received from the Ohio Division of Liquor Control that Forester Group LLC, 203 S. Market Street, Wooster, OH, applied for a new D5L liquor permit. 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). Mr. Ulbright moved, seconded by Mr. Buytendyk, not to request a hearing. Upon voice vote, motion carried unanimously.

The following member of the audience spoke: Kevin Breeden, 620 Arlington Drive (sidewalks; recycling)

V. COMMITTEE REPORTS; PUBLIC HEARINGS

The Finance Committee held a meeting at 6:30 p.m., September 8, 2009, where Mr. Dordea, Finance Director, reviewed the status of finances YTD through August 2009. In summary, Mr. Ansel indicated that compared to prior years, revenue receipts are down approximately \$600,000 (tax receipt incomes down \$300,000 and interest income accounts down \$300,000) and employee benefit costs are increasing. The city began 2009 with 154 days of cash reserves and have had to tap into approximately 25 of those days. As long as the city has reserves the committee does not feel it is reasonable to look at increasing the tax base to the continuants of Wooster. Mr. Ansel announced that the Finance Committee will hold meetings every 60 days to monitor the progress of the financials.

VI. OLD BUSINESS

1. Third Reading - ORDINANCE NO. 2009-19 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. City council recently passed a similar piece of legislation for a non-drilling oil and gas lease in this same general area. Mr. Schuch explained that R.D. Wiles, Inc. owns real estate on both sides of the public right-of-way in the vicinity of the intersection of West Old Lincoln Way and Old Mansfield Road. This agreement would allow R. D. Wiles to obtain a lease for the public right-of-way in order to combine the real estate into a single unit, a minimum of 40 acres, for purposes of drilling a gas well. In consideration of which, the owner would pay a royalty to the City for the easement.

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

2. Second Reading - RESOLUTION NO. 2009-63 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ADVERTISE ACCORDING TO LAW AND ENTER INTO A CONTRACT WITH THE LOWEST AND BEST BIDDER FOR THE PURCHASE OF A VEHICLE, AND DECLARING AN EMERGENCY (Ansel)

Mr. Ansel stated the Information Technology Division is in need of replacing its sole vehicle for the reason that the cost of repairs for the vehicle has begun to exceed its value. IT uses the vehicle to travel between city-owned facilities transporting and repairing IT equipment. The replacement vehicle will get 30 miles per gallon and cost approximately \$15,000. The purchase was budgeted for in 2010 but reserves are available to be transferred in order to replace the vehicle at this time.

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

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

VII. NEW BUSINESS

1. First Reading - ORDINANCE NO. 2009-21 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO SELL PUBLIC PROPERTY, TO-WIT: ONE EMERGENCY SQUAD TRUCK, AND DECLARING AN EMERGENCY (Steiner)

Mr. Steiner stated the Fire Division recently purchased a new emergency squad truck to replace one purchased in 2000 which was no longer useful or necessary for any current municipal purpose. The truck has no significant trade-in value and the Fire Chief believes it would be appropriate to sale the truck. Jeromesville Community Fire District has expressed an interest in purchasing the truck for \$10,000.

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

2. First Reading - ORDINANCE NO. 2009-22 AUTHORIZING THE PURCHASE OF REAL ESTATE, AND DECLARING AN EMERGENCY (Ansel)

Mr. Ansel stated this is a major accomplishment for the city towards the revitalization of the downtown area. It was a team effort and Mr. Ansel congratulated all those who worked in accomplishing the mission. The property, which was appraised at \$232,000, will cost the city \$175,000 and will add 23 additional downtown public parking spaces. Mr. Ansel explained the financing vehicle structure. The city will transfer \$175,000 from the Economic Development Capital Improvement Fund, the golden parachute reserve from the Rubbermaid closing, to Wooster Growth who under their CIC status can purchase and resell property, as the city itself cannot. The developer of Merchant Block will repay Wooster Growth in either equity or in cash payment over the duration of the amortization period which will be finalized through Wooster Growth.

5. First Reading - RESOLUTION NO. 2009-69 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A CONTRACT WITH NORTH EAST DIRT AND PAVING FOR PROVIDING TREE SERVICE, AND DECLARING AN EMERGENCY (Ulbright)

Mr. Ulbright stated the amount of this contract will exceed \$15,000.00, but will be less than or equal to \$25,000.00 and is exempt from the competitive bidding requirement. The contract will authorize the director of administration to enter into a contract with North East Dirt and Paving for trimming, pruning, planting and grinding tree stumps; spraying and for emergency work due to ice and wind storms and other tree services. Mr. Ulbright noted the infrastructure budget, which is normally spent on new sidewalks, was used to improve/replace older sidewalks throughout the city some of which had been damaged due to tree roots. This contract will help maintain tree roots from becoming overgrown and causing damage to the sidewalks. Daryl. Decker, Parks Manager, indicated this contract is needed to proceed with their normal routine tree work

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

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

6. First Reading - RESOLUTION NO. 2009-70 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES RELATED TO THE ASSESSMENT OF A POTENTIAL NUISANCE ODOR IN THE VICINITY OF INDUSTRIAL BOULEVARD, AND DECLARING AN EMERGENCY (Ansel)

Mr. Ansel pointed out that council is aware of the odor issue on the southend of town as there has been an overwhelming outcry of concern from the local residents and their patience in this situation is noted and commended. In Resolution No. 2009-67, council authorized the filing of a legal action to revoke EnviroClean's operating permit and they in turn filed an appeal and are back in operation. In order to determine the existence of a nuisance, it is necessary to retain the services of a consultant who is qualified to analyze air quality and offer a professional opinion as to the origin and nature of the odors and the consequences to the surrounding neighborhood. The owner of the business has agreed to participate 50/50, up to \$10,000, in the expense of consulting services. Residents are concerned that once the consultant arrives business behaviors will be modified and a true reading will not be gotten. Mr. Ansel agreed that is a concern but feels the testing needs to be done in order to eliminate other alleged source origins in the area. Mr. Ulbright asked Mr. Benson to share more information on the consultant. Mr. Benson indicated at this point a consultant hadn't been selected but once that happens the testing could begin as early as next week. Mr. Ansel felt an expert located in close proximity could be beneficial if a quick response is needed to identify a source of odor. Mr. Benson did not feel that would be a factor as they are use to dealing with these situations. Mr. Steiner wanted to know what would happen if the city does find the origin of the odors and it proves to be a problem. Mr. Benson explained there will be one of two results. If the source is found, a permanent fix will be suggested. If that does not work, the other result is the consultant, who investigated the problem, will be able to go to court and testify on behalf of the city to verify the existence of a nuisance odor emanating from this location. Mr. Buytendyk asked if it is written in the contract that the consultant will offer suggestions to correct the problem as well as identify the source of the odor, to which Mr. Benson indicated that yes it is explicit in the contractual arrangement. It was also noted that the owner of the business is willing to cooperate in fixing the problem.

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

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

7. First Reading - RESOLUTION NO. 2009-71 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ENTER INTO A CONTRACT WITH AMERICAN ELECTRIC POWER FOR THE CONSTRUCTION OF ELECTRICAL SERVICE FOR THE POINT OF VIEW LIFT STATION, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Silvestri stated Resolution No. 2009-51 was approved by council for the replacement of the Point Of View lift station, which is being done in conjunction with the improvement of Secrest Road for the BioHio Project. At that time an agreement was not in place with American Electric Power for a 3-phase electrical service at that location. The city engineer feels this is the best and most economical way to go. The majority of this project is being funded by an Ohio Department of Development grant through the Job Ready Sites program. The total estimated cost, \$26,010.24, will be requested up front from the JRS Program, but paid out in 48 monthly payments to AEP. The city will receive a discount from AEP for paying in this manner.

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

8. First Reading - RESOLUTION NO. 2009-72 AUTHORIZING THE DIRECTOR OF ADMINISTRATION TO ADVERTISE ACCORDING TO LAW AND ENTER INTO A CONTRACT WITH THE LOWEST AND BEST BIDDER FOR THE CONSTRUCTION OF A BIOTOWER FOR THE WATER POLLUTION CONTROL PLANT, AND DECLARING AN EMERGENCY (Silvestri)

Mr. Silvestri stated council recently adopted resolutions authorizing the design of a biotower (2009-45) and a cooperative agreement with Frito-Lay for the construction of the biotower (2009-66). The design work has been completed and the cooperative agreement has been executed and it is now necessary to go to bid for the construction of the biotower. The rough estimate was approximately \$2,000,000 and the current estimated cost is \$2,750,000. There are two ways to control the odor and the contract will be bid both ways. The higher priced odor control system would allow for future additions to the system, possibly adding a second biotower, which would be able to handle the extra load on the system. The less expensive odor control system would need to be torn out and replaced in order to handle additions to the system.

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

Mr. Henery wanted to verify that in doing this, the city will be saving a considerable amount of money over a period of time and Mr. Silvestri confirmed it is definitely a cost savings. Mr. Henery also questioned if within 5 years if the project will pay for itself and Mr. Borton believed somewhere in that ballpark. Mr. Ulbright added that it will also increase the capacity to handle other business coming into the area bringing more jobs.

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

VIII. MISCELLANEOUS

In regards to the odor problem in the south end of Wooster, Mr. Ulbright stated he hopes council's actions will lead to the source of the odor problem and a permanent solution will be forthcoming as the citizens deserve a quick solution to this problem which has been around since 2003.

Mr. Henery stated he had been contacted by constituents about the new pub going in at the Wooster Inn. He asked Chief Glick if there is a concern that this could lead to increased criminal activity in the area. Based on the management running the operation, Chief Glick did not foresee any problems, but indicated the police department will keep an eye on it.

IX. ADJOURNMENT

Mr. Ulbright moved, seconded by Mr. Steiner, to adjourn. Motion carried and meeting so adjourned at 8:30 p.m.

David J. Silvestri
Acting President of Council

Cheryl K. Collins
Clerk of Council