

Council met in **REGULAR SESSION** on Monday, June 27, 2011, at 7:30 P.M. in the Council Chambers with President Maurer presiding. Members present: Anderson, Avant, Judge, Lysenko, Megyes, Soyars, Suboticki, and Wagner. The Pledge of Allegiance to the Flag was recited and Mr. Soyars gave the Invocation.

It was moved by Mr. Judge, seconded by Mr. Soyars, to approve the Minutes of the Regular Legislative Session held on Monday, June 13, 2011 as presented. All Members voted "yea." Motion carried.

PETITIONS AND CLAIMS

None.

MATTERS REFERRED

Each Council Member, the Mayor and Service Director were given a report prepared by the Council Clerk listing all matters before all committees.

CITIZENS ADDRESSING COUNCIL

None.

The following Minutes are not transcribed verbatim. This meeting has been recorded in its entirety and the tape is catalogued in the Clerk of Council's office.

FIRST READING OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 89-2011

ORDINANCE NO. 89-2011. PRESENTED BY: MR. SOYARS. TITLE: BARBERTON CODIFIED ORDINANCE UPDATE. AN ORDINANCE TO APPROVE THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; TO PROVIDE FOR THE ADOPTION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; TO REPEAL ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND TO DECLARE AN EMERGENCY. It was moved by Mr. Soyars, seconded by Mr. Megyes, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted "yea." Motion carried. It was moved by Mr. Soyars, seconded by Mr. Megyes, that **ORDINANCE NO. 89-2011 BE ADOPTED.** All Members voted "yea." Motion carried.

ORDINANCE NO. 90-2011

ORDINANCE NO. 90-2011. PRESENTED BY: MR. MEGYES. TITLE: ENTER INTO CONTRACT – CB & I CONSTRUCTORS, INC. – EAST SIDE TANK. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH CB & I CONSTRUCTORS, INC., THE LOWEST AND/OR BEST BIDDER, IN THE AMOUNT OF \$1,615,915, FOR THE PURCHASE OF THE NEW EAST SIDE TANK, AND DECLARING AN EMERGENCY. It was moved by Mr. Megyes, seconded by Mr. Lysenko,

that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that **ORDINANCE NO. 90-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 91-2011

ORDINANCE NO. 91-2011. PRESENTED BY: MR. MEGYES. TITLE: ENTER INTO CONTRACT – NATGUN CORPORATION – BAUER’S HILL TANK. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH NATGUN CORPORATION, THE LOWEST AND/OR BEST BIDDER, IN THE AMOUNT OF \$1,249,545, FOR THE REPLACEMENT OF THE BAUER’S HILL TANK, AND DECLARING AN EMERGENCY. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that **ORDINANCE NO. 91-2011 BE ADOPTED.** President Maurer said hats off to Mr. Palmer, our Service Director, and Mr. Stender, our Utilities Superintendent. He said we keep moving on repairing and keeping up on an aging infrastructure to make sure the integrity of the City stays in place to provide us with a very important utility of water and wastewater collections. He said this is just another step in the same direction as we have updated our schools, updated our bridges, and we are going to update our utilities. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

ORDINANCE NO. 92-2011

ORDINANCE NO. 92-2011. PRESENTED BY: MR. MEGYES. TITLE: ENTER INTO CONTRACT – R & K ELECTRIC, LTD. – BAUER’S HILL TANK. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH R & K ELECTRIC, LTD., THE LOWEST AND/OR BEST BIDDER, IN THE AMOUNT OF \$162,919, FOR ELECTRICAL SERVICES FOR THE BAUER’S HILL TANK, AND DECLARING AN EMERGENCY. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that **ORDINANCE NO. 92-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 93-2011

ORDINANCE NO. 93-2011. PRESENTED BY: MR. MEGYES. TITLE: ENTER INTO CONTRACT – D & M PAINTING CORPORATION – EASTERN ROAD TANK. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH D & M PAINTING CORPORATION, THE LOWEST AND/OR BEST BIDDER, IN THE AMOUNT OF \$277,840, FOR THE PAINTING OF THE EASTERN ROAD TANK, AND DECLARING AN EMERGENCY. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that **ORDINANCE NO. 93-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 94-2011

ORDINANCE NO. 94-2011. PRESENTED BY: MR. MEGYES. TITLE: SUBMIT ISSUE I APPLICATION – OHIO PUBLIC WORKS COMMISSION – 31ST STREET NW WATERLINE PROJECT. AN ORDINANCE AUTHORIZING THE MAYOR TO SUBMIT AN ISSUE I APPLICATION TO THE OHIO PUBLIC WORKS COMMISSION, DISTRICT 8, IN THE TOTAL AMOUNT OF \$1,500,000, FOR THE 31ST STREET NW WATERLINE PROJECT, A SHARED PROJECT BETWEEN THE CITY OF BARBERTON AND THE CITY OF NORTON, AND DECLARING AN EMERGENCY. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that **ORDINANCE NO. 94-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 95-2011

ORDINANCE NO. 95-2011. PRESENTED BY: MR. JUDGE. TITLE: ENTER INTO CONTRACT – CT CONSULTANTS – FIFTH STREET NE PROJECT. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH CT CONSULTANTS, IN THE AMOUNT OF \$4,500, TO PROCEED WITH PRELIMINARY ENGINEERING SERVICES FOR THE FIFTH STREET NE PROJECT, AND DECLARING AN EMERGENCY. It was moved by Mr. Judge, seconded by Mr. Suboticki, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Judge, seconded by Mr. Suboticki, that **ORDINANCE NO. 95-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

RESOLUTION NO. 96-2011

RESOLUTION NO. 96-2011. PRESENTED BY: MR. JUDGE. TITLE: SUBMIT APPLICATION – DISASTER RELIEF FUND. A RESOLUTION AUTHORIZING ROBERT J. GENET, MAYOR OF THE CITY OF BARBERTON, TO SUBMIT AN APPLICATION TO THE APPROPRIATE STATE OFFICE FOR THE PURPOSE OF OBTAINING CERTAIN FEDERAL FINANCIAL ASSISTANCE UNDER THE “DISASTER RELIEF ACT,” IN ORDER FOR THE CITY TO ESTABLISH AND IMPLEMENT A NATURAL HAZARDS MITIGATION PLAN, AND DECLARING AN EMERGENCY. It was moved by Mr. Judge, seconded by Mr. Suboticki, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Judge, seconded by Mr. Suboticki, that **RESOLUTION NO. 96-2011 BE ADOPTED.** Mayor Genet said flooding has been an ongoing issue for every Council and every Administration for many, many years. He said even though this funding will not be the complete solution to the flooding issues in the City of Barberton, it is the first time we have been able to get access money to put together a plan and to be able to use some of the money for the mitigation of flooding. He said we have made a lot of great strides over the years with our stormwater utilities thanks to our Stormwater Engineer, Mr. Keltyka. Mayor Genet said Mr. Keltyka really needs to be commended for seeking out this grant and for his aggressiveness in trying to help with this problem. He said flooding is a regional issue. He said, for example, the other day it rained very little in Barberton; however, Barber Road had to be closed because

Medina got two inches of rain. Mayor Genet said that is a perfect example of why we need to continue working with other agencies in the region. He said he does not think we will ever be able to eliminate it, but we will be able to relieve the flooding issues in the City. President Maurer called for the vote on adoption. All Members voted "yea." Motion carried.

ORDINANCE NO. 97-2011

ORDINANCE NO. 97-2011. PRESENTED BY: MR. AVANT. TITLE: AMENDING ORD. NO. 17-2007 – COMPENSATION FOR ELECTED OFFICIALS. AN ORDINANCE AMENDING ORDINANCE NO. 17-2007 TO ESTABLISH THE COMPENSATION FOR CERTAIN ELECTED OFFICIALS; AND TO INCLUDE THE PRESIDENT OF COUNCIL AND MEMBERS OF COUNCIL IN THIS ORDINANCE, AND DECLARING AN EMERGENCY. Mr. Avant said in the Finance Committee this evening, they voted 3-1 to amend this ordinance to change the salaries of the Mayor, Finance Director, and Law Director. He said the amendment basically changes their salaries for the years 2012 through 2015 to the salary amounts they received in 2009 instead of 2010. He said there were no changes in this ordinance for the Council President, Council At-Large, or Members of Council. It was moved by Mr. Avant, seconded by Mr. Anderson, that **ORDINANCE NO. 97-2011 BE AMENDED.** Mr. Suboticki asked if these were the actual amounts introduced by Mr. Wagner at the Special Finance Meeting as far as council members -- a reduction of \$500 -- and is that reduction included in the amendment we are now voting on? Mr. Wagner said he believed the 2009 amounts were the original. Mr. Lysenko said he is not clear what the council salaries would be. President Maurer said the salaries for council members would be \$12,000 and council president would be reduced to \$15,500. President Maurer called for the vote on the amendment. Mr. Judge, Mr. Soyars, Mr. Megyes, Mr. Suboticki, Mr. Lysenko, Mr. Anderson, and Mr. Wagner voted "yea." Mr. Avant voted "nay." Motion carried, 7-1. It was moved by Mr. Avant, seconded by Mr. Anderson, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. Mr. Wagner, Mr. Anderson, Mr. Lysenko, Mr. Suboticki, Mr. Megyes, Mr. Soyars, and Mr. Judge voted "yea." Mr. Avant voted "nay." Motion carried, 7-1. It was moved by Mr. Avant, seconded by Mr. Anderson, that **ORDINANCE NO. 97-2011 BE ADOPTED, AS AMENDED.** Mr. Avant said he thinks we are forgetting what the three, full-time elected officials did in the past. He said if we would have stuck with the ordinance before the amendment, we would have changed salaries to the 2010 salary levels for four years and there would have been an amount of \$18,560, which is a payout of \$4,640 per year, the amount saved by their voluntary freeze. He said in 2010 they did not take an increase so there was a savings of \$4,640. Mr. Avant said they could have taken the increase in 2011 and that was a savings of \$9,372. He said he knows this is a moot point right now, but he wanted to make the point that we seem to have forgotten what took place in the last two to three years. He said there was a comment in the paper today that we do not know if they would forfeit any increases in the future. Mr. Avant said when we set the salaries back in 2007 at 2% increases per year, we did not know that either. He said that ordinance was passed when times were not that great, but positive -- before Wall Street raked over the country and Freddie Mac took our housing down. He said we gave those increases, but when those events happened, they took those freezes. Mr. Avant said there is no reason why we would not think that would happen again if things did not increase. He said he thinks we are showing some ingratitude when we vote on this tonight. Mr. Wagner said these three people deserve an increase. He said they all deserve increases -- our safety forces and our city workers -- but the money is not there. He said this city is trying to pull

itself up by its boot straps, trying to find innovative ways to patch our streets. Mr. Wagner said we have infrastructure crumbling, waterlines are breaking, and our bridges are crumbling. He said we all have to tighten our belts a bit to get through this thing. He said he has all the respect in the world for these three individuals and for the members of council as well. He said if the money were there, he would be the first one in line to say to give them their just due. President Maurer called for the vote on adoption. Mr. Judge, Mr. Soyars, Mr. Megyes, Mr. Suboticki, Mr. Lysenko, Mr. Anderson, and Mr. Wagner voted “yea.” Mr. Avant voted “nay.” Motion carried, 7-1.

ORDINANCE NO. 98-2011

ORDINANCE NO. 98-2011. PRESENTED BY: MR. AVANT. TITLE: AMENDING ORD. NO. 204-2010 – EMPLOYEES NOT INCLUDED IN NON-BARGAINING PAY GRADES. AN ORDINANCE AMENDING ORDINANCE NO. 204-2010, “EMPLOYEES NOT INCLUDED IN NON-BARGAINING PAY GRADES,” BY DELETING THE PRESIDENT OF COUNCIL AND MEMBERS OF COUNCIL FROM THIS ORDINANCE IN ORDER TO INCLUDE THOSE ELECTED POSITIONS IN ORDINANCE NO. 97-2011 WITH OTHER ELECTED OFFICIALS; AND INCREASING THE SALARY OF THE PART TIME JUVENILE DIVERSION SPECIALIST, DUE TO A GRANT, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, seconded by Mr. Anderson, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Avant, seconded by Mr. Anderson, that **ORDINANCE NO. 98-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 99-2011

ORDINANCE NO. 99-2011. PRESENTED BY: MR. AVANT. TITLE: ENTER INTO CONTRACT – INSURANCE COVERAGE – PROPERTY / VEHICLE / LIABILITY. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT, WITHOUT COMPETITIVE BIDDING, WITH WICHERT INSURANCE COMPANY, CONSTITUTING A ONE YEAR EXTENSION OF THE CURRENT CONTRACT FOR THE CITY’S PROPERTY / VEHICLE / LIABILITY INSURANCE COVERAGE, DUE TO EXPIRE ON JUNE 29, 2011, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, seconded by Mr. Anderson, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Avant, seconded by Mr. Anderson, that **ORDINANCE NO. 99-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 100-2011

ORDINANCE NO. 100-2011. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – CT CONSULTANTS – FIFTH STREET NE PROJECT. AN ORDINANCE APPROPRIATING \$4,500 FROM THE UNAPPROPRIATED ITEM OF THE INFRASTRUCTURE RESERVE FUND TO THE INFRASTRUCTURE RESERVE FUND OPERATING BUDGET, IN ORDER FOR CT CONSULTANTS TO PROCEED WITH PRELIMINARY ENGINEERING SERVICES FOR THE FIFTH STREET NE PROJECT, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, seconded by Mr. Judge, that the rule as required by Section 5.10 of the Barberton City Charter be

suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Avant, seconded by Mr. Judge, that **ORDINANCE NO. 100-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 101-2011

ORDINANCE NO. 101-2011. PRESENTED BY: MR. AVANT. TITLE: RESURFACING OF LOCKWOOD ROAD – AUTHORIZING COOPERATION – CITY OF BARBERTON / COUNTY OF SUMMIT ENGINEER. AN ORDINANCE AUTHORIZING COOPERATION BETWEEN THE CITY OF BARBERTON AND THE COUNTY OF SUMMIT ENGINEER FOR THE RESURFACING OF LOCKWOOD ROAD, INCLUDING DIRECT PAYMENT OF COSTS TO CONTRACTOR THERETO, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, seconded by Mr. Judge, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Avant, seconded by Mr. Judge, that **ORDINANCE NO. 101-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 102-2011

ORDINANCE NO. 102-2011. PRESENTED BY: MR. AVANT. TITLE: BUDGET ADJUSTMENT – APPROPRIATION – SUMMIT STREET WATERLINE PROJECT. AN ORDINANCE APPROPRIATING A TOTAL AMOUNT OF \$1,349,743 FROM THE UNAPPROPRIATED ITEM OF THE WATER FUND TO THE WATER FUND CAPITAL BUDGET, FOR THE SUMMIT STREET WATERLINE PROJECT, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, seconded by Mr. Megyes, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted “yea.” Motion carried. It was moved by Mr. Avant, seconded by Mr. Megyes, that **ORDINANCE NO. 102-2011 BE ADOPTED.** All Members voted “yea.” Motion carried.

SECOND READING OF ORDINANCES AND RESOLUTIONS

None.

THIRD READING OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 67-2011

ORDINANCE NO. 67-2011. PRESENTED BY: MR. SUBOTICKI. TITLE: AMENDING BARBERTON DEVELOPMENT CODE – SECTION 1250.07 – “FENCES.” AN ORDINANCE AMENDING CERTAIN PARTS OF SECTION 1250.07 OF THE BARBERTON DEVELOPMENT CODE ENTITLED “FENCES.” *First Reading – May 23, 2011. Second Reading – June 13, 2011. Third Reading – June 27, 2011.* It was moved by Mr. Suboticki, seconded by Mr. Wagner, that **ORDINANCE NO. 67-2011 BE ADOPTED.** Mr. Lysenko said he will be voting “no” on this. He said generally he does not think it is a bad idea, but it does require one to seek written approval from his neighbors over the material, color, and height of the fence. He said without it, they would be required to spend additional money, in addition to the cost of the fence, on a survey by a registered surveyor. Mr. Lysenko said the estimate he heard for this would be \$700-\$800. He said he imagines people who might be considering a fence may not even get a response from a neighbor and, without that, we are asking them to spend a significant additional amount of money based upon their neighbor’s

preference of their aesthetic considerations. He said people should be able to do what they want within the confines of their own property as long as they are within the Code as to the material, the color, and height of their fence. Mr. Lysenko said he does not think they should need written approval from their neighbors or be put to an additional \$700-\$800 cost in that regard. President Maurer called for the vote on adoption. Mr. Judge, Mr. Soyars, Mr. Megyes, Mr. Suboticki, Mr. Avant, Mr. Anderson, and Mr. Wagner voted “yea.” Mr. Lysenko voted “nay.” Motion carried, 7-1.

APPOINTMENTS

None.

MISCELLANEOUS AND UNFINISHED BUSINESS

Mr. Anderson said on July 18th he would be introducing legislation regarding land banking. He said this was all put together by the Planning Department and he will ask the Planning Department to do a presentation before Committee of the Whole. He said he will get everyone packets on the “Land Banking Program” that he hopes will pass. He said he will ask for three readings on this to give Council all of August.

President Maurer said by the time we reconvene, half a year will be in the books already. He said to keep up the good work. He said to Mr. Lysenko that his letter regarding pursuing property owners in absentia is a really good idea. He said he would like to commend him on that and hope that is something we can work on with the Building Department.

President Maurer said Council will be in recess the month of August. He said if department heads have anything to be passed before September, it needs to be brought forward next month.

Mr. Megyes said this Thursday he is having a Van Hying Neighborhood Watch Group Meeting at the Active Adult Center at 7:00 p.m. He said it is open to the public. He said Monte Harris, the Narcotics Detective, will be there to talk about bath salts and other drugs.

COMMUNICATION FROM THE MAYOR

Mayor Genet said he would like to briefly touch on what Mr. Anderson mentioned on land banking. He said we have been working with the Planning Department on this issue. He said as we go through this process, there is a lot of information on what an actual land bank can and cannot do and the successes of particular land banks and the failures of some land banks. He said he commends Mr. Anderson for taking the three readings so everyone will understand what exactly land banking entails. He said the County used to have a land bank, but has since been dissolved. He said we may be able to learn a little bit from them as to what the pluses and minuses were.

Mayor Genet said Wednesday is the first night of the Farmer’s Market and Thursday, barring rain, we will have our Cruise In.

Mayor Genet said trash pickup will be delayed until Tuesday next week due to the Holiday.

A motion was made by Mr. Judge, seconded by Mr. Soyars, to adjourn.

Adjourned: 8:15 P.M.

Frederick S. Maurer
President of Council

Susan Matuch
Clerk of Council