

Council met in **REGULAR SESSION** on Monday, June 8, 2009, at 7:30 P.M. in the Council Chambers with President Maurer presiding. Members present: Anderson, Avant, Dippel, Judge, Megyes, Silva, Soyars, and Suboticki. The Pledge of Allegiance to the Flag was recited and Mr. Judge gave the Invocation.

It was moved by Mr. Judge, seconded by Mr. Dippel, to approve the Minutes of the Regular Legislative Session held on Tuesday, May 26, 2009, as presented. All Members voted "yea." Motion carried.

It was moved by Mr. Judge, seconded by Mr. Dippel, to approve the Minutes of the Public Hearing held on Monday, June 1, 2009, as presented. All Members voted "yea." Motion carried.

It was moved by Mr. Avant, seconded by Mr. Judge, to accept the Finance Department Report for April 2009, 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.

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.

CITIZENS ADDRESSING COUNCIL

Mr. Kenneth Cox, 869 Arroyo, Barberton, said he is in support of Ordinance No. 65-2009. He said the city certainly has many problems exasperated by the economy, but long range, he believes the most difficult problem -- and the one in which the city's future will sink or swim -- is maintaining the older housing stock. He said he is told that we have over 3,000 rental units in Barberton -- the last census said 4,000 -- and considerably more of our older homes are in need of repair. He said he took a drive up many streets in the Fourth and Fifth Wards and was amazed at the number of homes in the state of disrepair. He said he took close to 100 pictures and put a few on the poster board of what he feels is representative of what he saw. He said another problem is the general unsightliness, such as garbage cans, using front porches for storage, as well as normal litter. He said the Building Department faces many obstacles with foreclosures and sub-standard rentals. He said the rentals are difficult to deal with because many of the owners will not cooperate with the Building Department -- they have all kinds of ways to prolong the process to the point that the existing laws are inadequate. He said this is not to imply that all rentals are sub-standard, but it is safe to say the majority are. He said he listened to the landlords complain about the fees imposed by this ordinance which amounts to \$3.33 per month. He said they said the City wasted money, the fees were not necessary, and that if this ordinance passes they would oppose any future school levies. He said he has worked on many school levies, and landlords have almost always opposed levies. He said one major landlord who testified before this Council sent letters to his tenants opposing the school levy and threatened tenants by saying if they vote for the levy, the rent would certainly increase. He said another point is that it costs roughly \$4,000 of local funds to support one child in the Barberton School District. He said checking the tax records, most of the rental units he looked at are taxed at less than \$1,000 per year. He said this would seem that the rest of the city is subsidizing each rental unit a minimum of \$3,000 per year just for education, not counting other city services. He said it is easy to recognize that this is a business that is not only a liability to the community, but must be subsidized by other tax payers. He said after saying this about bad landlords, there are many good landlords that keep their properties up to code, but, unfortunately, they are in a minority. He said he would certainly urge each councilman to favorably vote for Ordinance No. 65-2009 and represent the views of the majority of their constituents. He said one of the gentlemen who testified before this Council has a property on W. Tuscarawas Avenue with 13 rooms and 5 bedrooms, the taxes are less than \$800 a year, and its value for tax purposes is \$38,000. He said because of the state of disrepair on these properties, the valuation is so low

that they are not paying their fair share. He said he realizes that this is a difficult issue, but having made many tough decisions as he sat in both Council and as Mayor for 17 years, he would like to think that he did not make those decisions to benefit himself politically, but for what was best for the town that he represented.

Mr. Gary Nichols, 5274 Cleveland Massillon Road, Barberton, said in 2000 he attempted to annex an allotment of 42 properties at the corner of Vanderhoof and Fairland Road into the City of Barberton and he was not successful; he was able to annex Essex Court, the street with his twinplex. He said every property owner told him that Barberton has too many restrictions and they did not want to be a part of Barberton for that reason. He said he wants Council to think about this when voting if Barberton still wants to annex property or merge down the road.

Mr. John W. Baker, 82 Gale Drive, Chairman of BPOP, said he wanted to thank Council for the courtesies extended to them since December, allowing his group to meet with some of them as a group and some as individuals to discuss this ordinance. He said as far as he is concerned, BPOP said all it is going to say at this point and the vote is up to you. He wished Council good luck. He said depending on how the vote goes, we may meet again. He said again thank you very much for allowing them to participate in the deliberations, and they will go from there.

Mr. Pat Betts, 222 16th Street, Barberton, said he has attended committee meetings to listen to the City's side and he showed up to three landlord meetings to listen to their side. He said he thought it was a great idea in the beginning, but he did not expect it to become an expensive tax that does not really fix anything in the city. He said at the Sokol's, he saw pictures of problem houses and the registration fee was referred to as "punitive," the perfect word. He said it takes somewhere between \$100,000 and \$250,000 out of circulation to continually try to fix up houses and apartments and gives it to the wrong departments in city government. He said sooner or later the magistrates will take a cut for court costs, fines, and inspections, the lawyers will get a bunch, and tens of thousands of dollars will go down the hole and there will be no money left to fix up anything! He said he made the wise crack in a meeting that this was all tax deductible, and everyone took it to heart. He said the sum of every \$50 you get to take off taxes. He said they deducted windows and siding and it is deducted over twenty-seven years! He said 95% of the landlords are being blamed for 55 years of our political leaders not having an assessment program to rebuild our infrastructure in the City. He said as long as this is not fixed, the housing is still going to be low. He said if you go back to the Views Line from 20 years ago, all of his calls were for the good of the city: get rid of the white trash bags, rebuild the parks, build sports complexes, rebuild the 50-100 year old schools, and have an assessment program for infrastructure. He said we need employees in the Utilities, Street, and Parks Departments -- not the Planning and Building Departments; and we need people who build things and fix things -- not people who move paper. He said the renters are the poor people, the senior citizens, the disabled, the single moms, and the college kids. He said with this ordinance you pick on the wrong people to pay the freight and the roads and sidewalks still look bad. He said we have Mr. Genet's Sidewalk Program, the coolest little program we have, but we could not get Mr. Maurer's program by charging just a buck or two from all of us to help fix water and sewer lines that break. He said last year we had over 200 breaks which had to cost at least a million dollars. He said this (landlord) group is going to get organized; it is going to be a fight and there are going to be lawsuits and people are going to get "dis-elected" -- and we have a good group of people here. He said this is the wrong fight at the wrong time and it is the wrong money going to the wrong place. He said Council needs to drop this and table it and start over.

Ms. Joyce Anderson, 308 Van Street, Barberton, said she originally did not oppose this but because of the way it is written, she has to go against it. She said ORC, Section 731.19 Subject and Amendment of Bylaws, Ordinances, and Resolutions states: No ordinance, resolution, or bylaw shall contain more than one subject which shall be clearly expressed in its title. No bylaw or ordinance or section thereof shall be revived or amended unless the new bylaw or ordinance contains the entire bylaw, ordinance, or section revived or amended and the bylaw, ordinance or section so amended shall be repealed. Each such bylaw, resolution, and ordinance shall be adopted or passed by a separate vote of the legislative authority of a municipal corporation and the "yeas" and "nays" shall be entered upon a journal. She said our own Charter, Section 11.07, Conflict of Interest states: No member of Council or any officer or employee of the municipality, elective or otherwise, shall have any financial interest, direct or indirect, in any contract with or sale to a municipality of any materials, supplies, or services, or any land or

interest in land, or any financial interest, direct or indirect, in any contract with or expenditure of money by the municipality other than its fixed compensation and expenses of travel. She said she is not going to read all of the other codes and rules, but she is asking each council member to table this because there is another way to do this and to rewrite this if you want to do it. She said this is not according to Code and everyone is putting themselves in a position to being sued, including the City, and she does not want to see that happen.

Mr. Chuck Fowler, 1136 Wilbur Avenue, Norton, said he disagrees with Mr. Cox because he has 24 units in Barberton and his real estate taxes are approximately \$13,000 on those units, and to the best of his knowledge, he has only two people in the school system. He said we definitely know where the money is going to come from if this ordinance passes; the problem he has is where the money is going to go after it is collected. He said that has never been answered to the best of his knowledge. He said first they were told it was going to go for hiring additional inspectors, which now he understands it is not. He said now it might be going to the City to buy real estate, tear it down, and then maintain a vacant lot. He said the tenant is going to wind up paying this tax every place it can be passed on by the landlord, so basically it is a "tenant tax." He said the AMHA Executive Director was here looking for 44 units in Barberton. He said what is to say the land that the city is going to be buying -- probably with some of this money from the tenant tax -- will not be turned over to AMHA for subsidized housing. He said that means we have tenants in Barberton actually paying rent subsidizing subsidized housing! He asked if the money could go for that purpose. He said he would hope that each Council Member should know, before voting on any ordinance, where every penny of that money is going to go and not just give a blank check to the City to say this money is going to go for the improvement of the town. He said you have a responsibility to know how that money is going to be spent.

FIRST READING OF ORDINANCES AND RESOLUTIONS

RESOLUTION NO. 80-2009

RESOLUTION NO. 80-2009. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. SILVA. TITLE: COMMENDATION – LT. DON ADAMSON. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON HONORING AND GIVING PUBLIC RECOGNITION TO LT. DON ADAMSON FOR HIS 24 YEARS OF DEDICATED SERVICE TO THE BARBERTON POLICE DEPARTMENT AND THE CITIZENS OF THIS COMMUNITY. It was moved by Mr. Silva, 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. Silva, seconded by Mr. Anderson, that **RESOLUTION NO. 80-2009 BE ADOPTED.** Mr. Silva said Lt. Adamson could not be here tonight because he was just released from The Cleveland Clinic. President Maurer called for the vote on adoption. All Members voted "yea." Motion carried.

RESOLUTION NO. 81-2009

RESOLUTION NO. 81-2009. PRESENTED BY: ALL OF COUNCIL. CO-SPONSORED BY: MR. MAURER AND MR. AVANT. TITLE: COMMENDATION – DAN TOMICH. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO HONOR AND GIVE PUBLIC RECOGNITION TO MR. DAN TOMICH FOR HIS MANY YEARS OF LOYAL SERVICE TO HIS CUSTOMERS AND TO THIS COMMUNITY. It was moved by Mr. Avant, seconded by Mr. Silva, 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. Silva, that **RESOLUTION NO. 81-2009 BE ADOPTED.** Mr. Avant said he met Dan about 18 years ago in Kiwanis. He said they played a lot of golf together and he blames Dan for ruining his only chance to break 40! President Maurer said Dan does not repeat anything -- it is like going into his barber shop and saying, "Bless me, Dan, for I have sinned. It's been six weeks since my last haircut." He said Dan had his pulse on the whole business community and he was a great guy to have around. President Maurer called for the vote on adoption. All Members voted "yea." Motion carried. It was moved by Mr. Avant, seconded by Mr. Silva, to recess in order to present the resolution. All Members voted "yea." Motion carried.

Recessed: 8:08 p.m.

Reconvened: 8:11 p.m.

ORDINANCE NO. 82-2009

ORDINANCE NO. 82-2009. PRESENTED BY: MR. SUBOTICKI. TITLE: ENTER INTO GRANT AGREEMENT – CLEAN OHIO REVITALIZATION FUND (CORF). AN ORDINANCE AUTHORIZING THE MAYOR, VIA THE PLANNING DIRECTOR, TO ENTER INTO A GRANT AGREEMENT AND RELATED ASSURANCES, CERTIFICATIONS, AND CONTRACTS WITH THE OHIO DEPARTMENT OF DEVELOPMENT, URBAN DEVELOPMENT DIVISION, TO CARRY OUT ACTIVITIES RELATED TO THE CLEAN OHIO REVITALIZATION FUND (CORF) FOR 888 WOOSTER ROAD WEST, AND DECLARING AN EMERGENCY. It was moved by Mr. Suboticki, seconded by Mr. Dippel, 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. Suboticki, seconded by Mr. Dippel, that **ORDINANCE NO. 82-2009 BE ADOPTED.** Mr. Suboticki said he wanted to thank Ms. Sheridan and Mr. Stefan of the Planning Department for aggressively going after this grant money. He said they go up against other communities to access this money for certain projects and they did a good job of securing this one and also the one following, the EPA Grant. Mayor Genet said there is a match that the City is responsible for, \$335,000 for this 1.5 million dollars. He said they are aggressively looking to see if they can secure those funds. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

ORDINANCE NO. 83-2009

ORDINANCE NO. 83-2009. PRESENTED BY: MR. SUBOTICKI. TITLE: ENTER INTO AGREEMENT – USEPA CLEAN UP GRANT – PETE’S SUNOCO. AN ORDINANCE AUTHORIZING THE MAYOR, VIA THE PLANNING DIRECTOR, TO ENTER INTO A GRANT AGREEMENT AND RELATED ASSURANCES, CERTIFICATIONS, AND CONTRACTS WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA), TO CARRY OUT ACTIVITIES RELATED TO THE PETROLEUM CLEAN UP GRANT FOR THE FORMER PETE’S SUNOCO, AND DECLARING AN EMERGENCY. It was moved by Mr. Suboticki, seconded by Mr. Dippel, 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. Suboticki, seconded by Mr. Dippel, that **ORDINANCE NO. 83-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 84-2009

ORDINANCE NO. 84-2009. PRESENTED BY: MR. SILVA. 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. Silva, 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. Anderson, seconded by Mr. Silva, that **ORDINANCE NO. 84-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 85-2009

ORDINANCE NO. 85-2009. PRESENTED BY: MR. DIPPEL. TITLE: ENTER INTO CONTRACT – SUMMIT ROAD WATER TRANSMISSION MAIN PROJECT – FEDERAL APPROPRIATION CONTRACT. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE U.S. ARMY CORP OF ENGINEERS, SECTION 594, IN THE AMOUNT OF \$500,000, DUE TO A FEDERAL APPROPRIATION GRANT, TO HELP FUND THE SUMMIT ROAD WATER TRANSMISSION MAIN PROJECT, AND DECLARING AN EMERGENCY. It was moved by Mr. Dippel, seconded by Mr. Silva, 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. Dippel, seconded by Mr. Silva, that **ORDINANCE NO. 85-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 86-2009

ORDINANCE NO. 86-2009. PRESENTED BY: MR. DIPPTEL. TITLE: ENTER INTO GRANT AGREEMENT – DAM PROJECT – FEDERAL APPROPRIATION CONTRACT. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A GRANT AGREEMENT AND RELATED ASSURANCES, CERTIFICATIONS, AND CONTRACTS WITH THE FEDERAL GOVERNMENT, FOR A FEDERAL APPROPRIATION IN THE AMOUNT OF \$400,000, FOR VALVE REPLACEMENTS IN THE DAM, AND DECLARING AN EMERGENCY. It was moved by Mr. Dippel, seconded by Mr. Silva, 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. Dippel, seconded by Mr. Silva, that **ORDINANCE NO. 86-2009 BE ADOPTED.** President Maurer said Mr. Stender, Utilities Director, took members of the Utilities Committee on the tour of the facility. He said those valves have been in place since the dam was built in the 1920’s, so this is something that really needs to be done. He asked Mr. Stender if anyone was found to do the work yet. Mr. Stender said they have two bids at this time and they are renegotiating for a good price/performance. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

ORDINANCE NO. 87-2009

ORDINANCE NO. 87-2009. PRESENTED BY: MR. DIPPTEL. TITLE: ENTER INTO AGREEMENT – WASTEWATER TREATMENT PLANT PROJECT – OHIO PUBLIC WORKS COMMISSION. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE OHIO PUBLIC WORKS COMMISSION, DISTRICT 8, IN THE AMOUNT OF \$2,000,000, FOR THE WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY. It was moved by Mr. Dippel, seconded by Mr. Silva, 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. Dippel, seconded by Mr. Silva, that **ORDINANCE NO. 87-2009 BE ADOPTED.** Mr. Palmer, Service Director, said they are very pleased to receive this grant of two million dollars and also a loan for the additional two million dollars. He said obviously the Wastewater Treatment Plant is the lifeblood of the City and any time we can get this type of help, it is greatly appreciated. He said they will continue to try to get additional grant money. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

ORDINANCE NO. 88-2009

ORDINANCE NO. 88-2009. PRESENTED BY: MR. DIPPTEL. TITLE: ENTER INTO GRANT AGREEMENT – WASTEWATER TREATMENT PLANT PROJECT – ARRA AWARD. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A GRANT AGREEMENT AND RELATED ASSURANCES, CERTIFICATIONS, AND CONTRACTS WITH THE FEDERAL GOVERNMENT, FOR AN ARRA AWARD, IN THE AMOUNT OF \$2,000,000, DUE TO THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, FOR THE WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY. It was moved by Mr. Dippel, seconded by Mr. Silva, 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. Dippel, seconded by Mr. Silva, that **ORDINANCE NO. 88-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 89-2009

ORDINANCE NO. 89-2009. PRESENTED BY: MR. DIPPTEL. TITLE: SUBMIT ISSUE I APPLICATION – GRAND BOULEVARD – OHIO PUBLIC WORKS COMMISSION. AN ORDINANCE AUTHORIZING THE MAYOR TO SUBMIT AN ISSUE I APPLICATION TO THE OHIO PUBLIC WORKS COMMISSION, DISTRICT 8, IN THE AMOUNT OF \$400,000, FOR THE WATERLINE REPLACEMENT OF THE GRAND BOULEVARD IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY. It was moved by Mr. Dippel, seconded by Mr. Silva, 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. Dippel, seconded by Mr. Silva, that **ORDINANCE NO. 89-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 90-2009

ORDINANCE NO. 90-2009. PRESENTED BY: MR. DIPPEL. TITLE: ENTER INTO CONTRACT – UTILITIES – MIU BATTERY REPLACEMENT PROGRAM. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH LANDIS+GYR, WITHOUT COMPETITIVE BIDDING BEING A SOLE SOURCE PROVIDER, TO BEGIN THE BATTERY REPLACEMENT PROGRAM FOR ALREADY INSTALLED METER INTERFACE UNITS (MIUS), IN AN AMOUNT NOT TO EXCEED \$188,000, AND DECLARING AN EMERGENCY. It was moved by Mr. Dippel, seconded by Mr. Silva, 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. Dippel, seconded by Mr. Silva, that **ORDINANCE NO. 90-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 91-2009

ORDINANCE NO. 91-2009. PRESENTED BY: MR. MEGYES. TITLE: ENTER INTO GRANT AGREEMENTS – FY2009 CDBG ANNUAL ACTION PLAN. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO GRANT AGREEMENTS AND RELATED ASSURANCES, CERTIFICATIONS, AND CONTRACTS WITH NEIGHBORHOOD DEVELOPMENT SERVICES (NDS), BARBERTON COMMUNITY DEVELOPMENT CORPORATION (BCDC), FAIR HOUSING ADVOCATES ASSOCIATION (FHAA), GROW BARBERTON, INC. (GBI), AND THE VICTIM ASSISTANCE PROGRAM, AND DECLARING AN EMERGENCY. It was moved by Mr. Megyes, seconded by Mr. Soyars, 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. Soyars, that **ORDINANCE NO. 91-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 92-2009

ORDINANCE NO. 92-2009. PRESENTED BY: MR. ANDERSON. TITLE: PURCHASE OF PROPERTY – 878 W. HOPOCAN. AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT TO PURCHASE THE PROPERTY AT 878 W. HOPOCAN AVENUE, USING CDBG FUNDS, FOR \$24,000 PLUS CLOSING COSTS, AND DECLARING AN EMERGENCY. It was moved by Mr. Anderson, 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. Anderson, seconded by Mr. Megyes, that **ORDINANCE NO. 92-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 93-2009

ORDINANCE NO. 93-2009. PRESENTED BY: MR. AVANT. TITLE: CREATE NEW FUND – APPROPRIATION – CLEAN OHIO REVITALIZATION GRANT FUND (CORF) – 888 WOOSTER ROAD WEST. AN ORDINANCE AUTHORIZING THE DIRECTOR OF FINANCE TO CREATE A NEW FUND, THE “CLEAN OHIO REVITALIZATION GRANT FUND,” AND TO APPROPRIATE \$1,512,889 FROM THE UNAPPROPRIATED ITEM OF THE CLEAN OHIO REVITALIZATION GRANT FUND TO THE CLEAN OHIO REVITALIZATION GRANT FUND OPERATING BUDGET, TO CARRY OUT ACTIVITIES RELATED TO THE CORF GRANT FOR 888 WOOSTER ROAD WEST, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, 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. Avant, seconded by Mr. Suboticki, that **ORDINANCE NO. 93-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 94-2009

ORDINANCE NO. 94-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – USEPA CLEAN UP GRANT – PETE’S SUNOCO. AN ORDINANCE APPROPRIATING \$200,000 FROM THE UNAPPROPRIATED ITEM OF THE GENERAL FUND TO THE PLANNING DEPARTMENT OPERATING BUDGET, DUE TO A GRANT FROM THE US DEPARTMENT OF ENVIRONMENTAL PROTECTION AGENCY (USEPA), TO CARRY OUT ACTIVITIES RELATED TO THE PETROLEUM CLEAN UP GRANT FOR THE FORMER PETE’S SUNOCO SITE, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, 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. Avant, seconded by Mr. Suboticki, that **ORDINANCE NO. 94-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 95-2009

ORDINANCE NO. 95-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – FY-2009 CDBG FUND. AN ORDINANCE APPROPRIATING \$750,434 FROM THE UNAPPROPRIATED ITEM OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND TO THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND OPERATING BUDGET, TO CARRY OUT ELIGIBLE FY2009 CDBG ACTIVITIES, 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. 95-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 96-2009

ORDINANCE NO. 96-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – FY 2008 CDBG FUND. AN ORDINANCE APPROPRIATING \$5,039.22 FROM THE UNAPPROPRIATED ITEM OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND TO THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND OPERATING BUDGET, TO CARRY OUT ELIGIBLE FY2008 CDBG ACTIVITIES, 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. 96-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

SECOND READING OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 75-2009

ORDINANCE NO. 75-2009. PRESENTED BY: MR. AVANT. TITLE: AMEND NON-BARGAINING EMPLOYEES POLICY. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BARBERTON AMENDING THE CITY OF BARBERTON’S NON-BARGAINING EMPLOYEES POLICY OF 2001.

First Reading – May 26, 2009. Second Reading – June 8, 2009.

THIRD READING OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 65-2009

ORDINANCE NO. 65-2009. PRESENTED BY: MR. SUBOTICKI. TITLE: REPEAL OF ORD. NO. 164-1990 AND ORD. NO. 188-1990 - (CHAPTER 1495 OF THE BARBERTON CODIFIED ORDINANCES) - ADOPT NEW RENTAL REGISTRATION PROGRAM. AN ORDINANCE REPEALING ORDINANCE NO. 164-1990, “ENACTING NEW CHAPTER 1495 RENTAL PROPERTIES OF THE BARBERTON CODIFIED ORDINANCES,” AND ORDINANCE NO. 188-1990, “ESTABLISHING FEE SCHEDULE FOR RENTAL INSPECTIONS”; AND AMENDING THE BARBERTON CODIFIED ORDINANCES BY ADOPTING A NEW RENTAL PROPERTY REGISTRATION PROGRAM. *First Reading – May 11, 2009. Second Reading – May 2, 2009. Third Reading – June 8, 2009.* It was moved by Mr. Suboticki, seconded by Mr. Dippel, to **AMEND ORDINANCE NO. 65-2009** by adding to Section VIII, shown as “L” in bold, stating that: Registration is not required if a dwelling or a dwelling unit has been substantially altered so as not to meet the requirements of a habitable residential dwelling or dwelling unit as determined by the Building Commissioner or his/her designee. President Maurer called for the vote on the **AMENDMENT**. All Members voted “yea.” Motion carried. It was moved by Mr. Suboticki, seconded by Mr. Dippel, that **ORDINANCE NO. 65-2009 BE ADOPTED, AS AMENDED.** Mr. Anderson said he supports this ordinance 100%, but only for the first two years. He said he has a problem with Section H on page 5. He said the third year of the renewal for good property owners has been reduced to 50%; however, he is requesting it be changed to “zero.” He said he would also like to see the results for the first two years of this ordinance. Mr. Anderson said we

can always revisit this ordinance and Council would have his full support if this goes through and they need to change any fees at that point. Mrs. Miller, Law Director, said she asked the council members for wording of any proposed amendments and she did not receive this, so she asked Mr. Anderson if he had proposed wording. Mr. Anderson said he wants it to read: If, upon the third renewal of the rental registration of properties, no notices/orders or convictions set forth in Section X of this ordinance have been issued, the fee for registration shall be zero. It was moved by Mr. Anderson, seconded by Mr. Soyars, to **AMEND** Section VIII(H) of Ordinance No. 65-2009. Mayor Genet said he appreciates Mr. Anderson's efforts because Mr. Anderson was probably one of the hardest working council members working on this ordinance. He said he was the one who suggested and pursued and changed the 30% to 50%, including Mr. Suboticki and a few others. He said he would encourage Council *not* to reduce it to zero. Mayor Genet said you are not going to see results in this program in two years. He said the housing issues we are facing today did not happen over two years and this is something that has taken place over a multiple of years and progressed to the point that we are facing today. He said Council always has the ability to take a look at any ordinance down the road. He said it needs to be in effect for a minimum of five to six years to really see the value of this ordinance. Mayor Genet said do not cut us off at the knees before we even get started. He said he appreciates all Mr. Anderson has done, but he would hope that Council does not reduce it down to zero. Mr. Soyars said he is going to be voting "no." He said he feels it is bad timing with the economy. He said he feels we are punishing the good landlords for the bad landlords and we have homeowners in this City who do not take care of their properties. President Maurer said that has always been his problem with the ordinance -- it seems to put an unfair burden on the landlords while the guilty parties who are owner-occupied, walk away scot free. He said it has been his desire to have this ordinance "penalty driven." He said we need to let the guilty parties pay ... and pay a lot ... to give them the incentive to clean up their properties with fines that could be diverted to the very things the Mayor wants to do. President Maurer said he is not really happy with this ordinance, but we have kicked this can down the road now for twenty years and it is about time to draw a line in the sand and do it. Mr. Anderson said let us give this ordinance two years; let us put in the zero amount; and let the Administration come back and show us some results and then we can amend it to any rate it needs to be in three years. He said let us not kill this ordinance because too many people worked too hard on it. President Maurer called for the vote on the **AMENDMENT** by Mr. Anderson, stating that a "yes" vote would reduce the registration fee to zero after three years for landlords with no notices, orders, or convictions and a "no" vote would kill the amendment. Mr. Soyars and Mr. Anderson voted "yea." Mr. Megyes, Mr. Dippel, Mr. Silva, Mr. Avant, Mr. Judge, and Mr. Suboticki voted "nay." Motion failed 2-6. Mr. Avant said we call this a very controversial issue and he disagrees with that because something controversial is half of the city against and half of the city for, and he does not feel that it is true with this issue. He said it is just a difference of opinion between the City and a small number of entrepreneurs. He said these entrepreneurs are in a rapid increasing industry, an industry that has both positive and negative impact on our neighborhoods -- and we have to think of our neighborhoods. Mr. Avant said it is a business venture where the majority of its owners reside outside of our city and neighborhoods. He said maybe the majority of those who have spoken to Council do a highly commendable job in maintaining their properties, and he believes that; however, they are a small part of the whole. He said all the parts of the whole are required to be treated equally. Mr. Avant said to take as an example, the refuse program, where the fee is the same if you have one small bag or you fill the entire tree lawn with items. He said all municipalities, regardless of size, are required to follow the same stringent guidelines of the Environmental Protection Agency. He said it is our responsibility as elected officials, with the Administration, to do everything possible to make the impacts positive. Mr. Avant said we need to pass this as it is and look at the next six months to make any amendments and to own it and to make it something that may appease both the landlords and the City and the neighborhoods. Mr. Judge said he would first like to thank everyone involved in this the last six months: Council, the landlords, Administration, the Building and Planning Departments. He said some of the points of contention he has had from the beginning included the fee, enforcement, the fines, and where the money would go after collected. He said the forty dollar fee was said to be the highest in the State, and that is not true -- it is far from it. Mr. Judge said the fee was reduced from sixty dollars to forty dollars and there is a break of 50% after three years. He said a majority of the landlords in Barberton are good landlords, so that is really going to affect them if this passes. He said the enforcement -- people have made statements that the landlords should self-police themselves. He said he does not see that ever happening. Mr. Judge said for at least three years the landlords had to register their rental properties with the

County. He said about one-third of our housing stock is rental, yet just over 200 rental properties are listed with the County. He said there is a whole group in violation with the County's rules -- and that is by Ohio Revised Code. He said there are only 116 owners, so there are a lot more out there. Mr. Judge said several landlords who were not registered with the County -- even as early as June 1 with probably about fifty units -- had one landlord who registered after owning properties for forty years. He said they also said this proposed legislation will not have any true effect or will not be enforced or worked on, but we have already seen several landlords starting to spruce up their properties. He said another contention is with the fines. He said Mr. Maurer said he would like this to be driven by fines so only the bad landlords are penalized and he agrees with that. Mr. Judge said he would like to see the fines increased, doubled or tripled, so that only the bad landlords are penalized. He said just based on his numbers, the fee will not cover the cost of doing an inspection with all the time and energy and fuel cost -- everything that it would take for an application. He said lastly, and most important, is where the money is going to go. He said we do not want this money going into a black hole. He said with that, the legislation does say that the money is to be used for the improvement of housing stock, infrastructure, and administration. He said some people say that is very gray and he thinks that is very gray. He said he will be requesting monthly reports, tracking money coming in and money going out if this passes. Mr. Silva said thank you to everyone who put this together. He said he has heard both sides of it and has spoken to many of the landlords personally, many of whom were on the committee. He said he agrees with some of their statements, but he also agrees with some of the things said by Mr. Judge and Mr. Maurer as far as being fee-driven. He said many of the landlords are very good landlords and he thinks they have a good fight. Mr. Silva said he does not want them to feel that we are punishing them -- there is the reduction after the third year. He said this will help the housing if we continue to improve what we have right now. He said there is going to be a lot of pressure on the Building Department to keep this program in check. He said as Mr. Judge said, he also thinks monthly reports would be good because it can not be that hard to track. He said he looked at some of the pictures from Mr. Cox's presentation and it is a shame that we have this going on. He said he does believe it is not so much the landlords who live here in Barberton or the surrounding cities; he believes it is the out of town landlords who just do not care except for that monthly rental check. He said it was mentioned about a tenant not knowing who his landlord was because they just mail their checks in, and that is wrong. He said after talking to the landlords and to the residents of the City, he thinks that the majority are in agreement with this. He said he was against this at first because of some of the fees, but he really does not feel it is going to be too harsh on anyone in the long run and it will be an improvement for our City. Mr. Dippel said he would like some clarification on Section H, talking about the third renewal. He asked if that is truly after three years or is that the beginning of the third year when it kicks in with the 50%. Mrs. Miller, Law Director, said it would be the third renewal: the first year you pay to register, then the first renewal, the second renewal, and the third renewal, which would be the fourth year you pay it. Mr. Megyes said this has been two years in the making; it was started in the Rules Committee. He said when he was campaigning two years ago he pushed for this. He said the second week of April he walked the ward and he interviewed a total of 83 people and it came down to 85% of them wanted this to pass. Mr. Megyes said his ward is the one being effected by this. He said he does not think this is perfect, but we have to do something. He said he just hopes this passes. President Maurer said we have kicked this can down the road for twenty years or so. He said he believes an issue like this was passed and went for repeal at the polls. He said in the short term expenditures on behalf of the rental property owners eventually they will realize greater capital gains if we can finally turn this thing around. He said it is not his wish that they punish anyone; it is not a punitive measure as has been asserted anymore than it is a punitive measure to go to one of our restaurant owners and have them buy a vendor's license. President Maurer said it is an administrative cost to get this thing off the ground. He said it is another misunderstanding that we do not need this program to cover the cost of the magistrate when the reality is, when the courts system comes up short, it is made up out of the general fund. He said it may not be a direct line item, but sooner or later, if the magistrate is in place, this is going to have to pay for it. Mayor Genet said the essence of leadership is that you have to have vision. He said a few years ago sitting in Mr. Maurer's chair, Mr. Palmer made the comment, "You have to have a vision. You have to decide what you want the City to look like and you have to travel that path to make it happen." He said you have an opportunity tonight to make a difference in the community. He said he commends those council members who have played an active role, along with the landlords, to come to this point that we are ready to vote tonight. Mayor Genet said the individuals who did not participate in any discussions and will show up tonight to vote

“no” are the ones he has a hard time accepting. He said how can they explain to their constituents that they are working to better the community. He said we are here collectively to work together to write legislation to better the community and we all need to take an active role in that. He said the modifications that came out of the original ordinance is a result of some of that dialog. He said it went from \$60 to \$40; we went from 30% to 50% for good behavior. Mayor Genet said he feels that was achieved because of the work of the landlords and of City Council. He said everyone is not happy. He said he knows that Mr. Baker and some of the other landlords are not happy. He said he pulled out tape recordings from 1990 and listened to the dialog when the City was attempting to do a rental inspection program. Mayor Genet said it is very ironic that some of the voices on that tape are some of the same voices we heard before us - - Mr. Baker, Mr. Vasiloff, and Mr. Stavarz. He said they testified back then just like they testified over the course of these hearings and the arguments were the same -- the economy is in the tank, the City is going to put us out of business, the City is half dead and you are going to kill the rest of it if this is enforced. Mayor Genet said the problem is we have had twenty years of not doing anything to address the rental issue. He said he would like to go to the other side of the coin and ask that you give us twenty years of a program and at the end of twenty years we can decide which way we should have gone. He said over that twenty years you have to ask yourself if the housing stock has increased or decreased and have the amount of rentals increased or decreased. He said one of the things that disturbed him over the last few months during these hearings was Council being disrespected in a few instances. Mayor Genet said we sit here very patiently listening to all of your concerns and all of the arguments in regard to this ordinance. He said as soon as a council member expressed his views which were not parallel to the landlords’ views, you had people waving their hands in disgust, walking out of the room, smirking or laughing or talking in the gallery. He said no matter what -- we can agree or disagree -- but he feels that there is a certain amount of professionalism that needs to be maintained. He said we have heard testimony recently saying if this ordinance is passed landlords will work to defeat every future school levy. Mayor Genet said as mentioned earlier by Mr. Cox, he does not think the landlords ever got together and organized to *support* a school levy. He said as a matter of fact, one individual specifically delivered a letter to all of his tenants in the Fall of 2007 indicating to them that they needed to defeat that school bond issue or their rents would be increased. He said who can honestly say that the removal of Norton Homes was bad for the community? Mayor Genet said thank goodness, on March 4 of 2008, that school bond issue passed. He said the only problem with Norton Homes being removed is what is behind it. He said now we have a building that was recently painted, but still has boarded up windows. He said they will continue to work cleaning up that site and the other areas in the City that need to be addressed. Mayor Genet said each and every council member has to ask themselves now that twenty years have passed since the last opportunity to address the rental issue, where they want the city to be in five, ten, or twenty years from now and how we are going to get there. He said he will not place all the blame on landlords. He said these funds will only be a small portion of the amount of money being put into our neighborhoods. He said last year over \$200,000 was spent in CDBG dollars and this year they will be spending roughly the same. Mayor Genet said in addition to that, we have \$1.2 million in State NSP Funds and we have additional monies coming from the County’s NSP Program. He said those monies are going to be funneled right back into our neighborhoods. He said he finds it interesting that property owners from Wadsworth, Norton, Akron, and beyond are trying to tell each and every one of you what is good for Barberton. Mayor Genet said rentals do have a place in the City of Barberton, but the problem is we have become saturated. He said we have talked about the issue -- is it a business or not -- and it is a business. He said the IRS significantly indicates that it is a business because your tax returns indicate such. Mayor Genet said if this deters one dwelling from becoming a rental, then it is successful. He said a lot of people have asked what is going to be done with owner-occupied properties. He said we are dealing with those and he would encourage anybody who thinks that we are doing nothing to spend time in the Building Department, to go and walk with them, and see what they have to do to get these properties in compliance -- all the paperwork, the legwork, and the court proceedings. Mayor Genet said he assures everyone that when they go out to address property maintenance, they do not know if they are rentals or owner-occupied -- they are out there addressing the issues. He said the difference between an owner-occupied and a rental being registered is the fact that we do not register all vehicles in the City of Barberton, however, we do license all taxicabs; we do not license all trucks in the City of Barberton, however, we do license all trash trucks; and we do not license and inspect all kitchens in the City of Barberton, however, we do all restaurants and charge fees accordingly. He said there is a difference between a business and an owner-

occupancy. He said as indicated in the testimony if this is passed, they will potentially organize for a referendum. Mayor Genet said that is fine; it is the democracy and he supports it wholeheartedly. He said he also believes that the majority of the residents would support this ordinance and, in his opinion, would have supported the initial ordinance. He said in summary, he is asking every councilman to have the vision to be able to make this a better community and to support this ordinance. Mr. Anderson said although his motion on the floor was denied, he will vote for this ordinance and he will keep an eye on the spending in the years to come. He said he has talked to a lot of people and he believes this is a good ordinance. He said he has tried his best in committees to push for a unit price; he pushed them down to 50% and that was agreed; and he was behind setting up a separate account. He said he pushed and he pushed and he pushed. President Maurer called for the vote on **ADOPTION, AS AMENDED**. Mr. Suboticki, Mr. Judge, Mr. Avant, Mr. Anderson, Mr. Silva, Mr. Dippel, Mr. Megyes voted “yea.” Mr. Soyars voted “nay.” Motion carried.

APPOINTMENTS

PARKS & RECREATION COMMISSION:

Mr. Peter R. Schanz - appointment (fill vacancy – Joseph Peters)
Immediately – December 31, 2011

It was moved by Mr. Anderson, seconded by Mr. Suboticki, to confirm the appointment of Mr. Peter R. Schanz to the Barberton Parks & Recreation Commission. All Members voted “yea.” Motion carried.

President Maurer said that he wanted to thank Mr. Joe Peters personally for his dedication to the Parks Commission and all the work he has done.

MISCELLANEOUS AND UNFINISHED BUSINESS

President Maurer acknowledged Mr. David Stavarz from the Boy Scouts who was attending for his Citizenship merit badge.

The Clerk read the following Liquor License Request and said no objections were received:
To: Arwen, Inc., DBA Doyle’s Drive Thru, 1087 Wooster Road, N., Barberton, Ohio.

COMMUNICATION FROM THE MAYOR

Mayor Genet said he was asked by the Superintendent to host a meeting to talk about the update of the school construction project. He said it will be held at the Active Adult Center on June 17th at 6:30 p.m.

Mayor Genet said he will not be in attendance next week because he will be at the Summit County Mayor’s Association Dinner.

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

Adjourned: 9:12 P.M.

Frederick S. Maurer
President of Council

Susan Matuch
Clerk of Council