

Council met in **REGULAR SESSION** on Monday, June 22, 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. Dippel gave the Invocation.

It was moved by Mr. Judge, seconded by Mr. Dippel, to approve the Minutes of the Regular Legislative Session held on Monday, June 8, 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 May 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.

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. 97-2009

ORDINANCE NO. 97-2009. PRESENTED BY: MR. MEGYES. TITLE: AMEND ORD. NO. 32-2009 – ENTER INTO GRANT AGREEMENT – NEIGHBORHOOD DEVELOPMENT SERVICES. AN ORDINANCE AMENDING ORDINANCE NO. 32-2009 THAT AUTHORIZED THE MAYOR TO ENTER INTO A GRANT AGREEMENT AND RELATED ASSURANCES, CERTIFICATIONS AND CONTRACTS WITH NEIGHBORHOOD DEVELOPMENT SERVICES (NDS), INC., BY CHANGING THE MONETARY AMOUNTS IN SAID ORDINANCE TO TOTAL \$709,000, 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. 97-2009 BE ADOPTED.** All Members voted "yea." Motion carried.

ORDINANCE NO. 98-2009

ORDINANCE NO. 98-2009. PRESENTED BY: MR. ANDERSON. TITLE: PURCHASE OF PROPERTY – 299 4TH STREET, NW. AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT TO PURCHASE THE PROPERTY AT 299 4TH STREET NW, USING CDBG FUNDS, FOR \$20,000 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. 98-2009 BE ADOPTED.** All Members voted "yea." Motion carried.

ORDINANCE NO. 99-2009

ORDINANCE NO. 99-2009. PRESENTED BY: MR. ANDERSON. TITLE: TRANSFER OF PROPERTY – 123 7TH STREET, NW. AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A "QUIT CLAIM DEED" FOR NEIGHBORHOOD DEVELOPMENT SERVICES (NDS) TO TAKE OWNERSHIP OF 123 7TH STREET, NW, PARCEL #01.12543, FOR ONE DOLLAR (\$1.00), AND DECLARING AN EMERGENCY. It was moved by Mr. Anderson, seconded by Mr. Avant, 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. Avant, that **ORDINANCE NO. 99-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 100-2009

ORDINANCE NO. 100-2009. PRESENTED BY: MR. ANDERSON. TITLE: WASHINGTON SQUARE APARTMENT COMPLEX. AN ORDINANCE AUTHORIZING THE MAYOR TO SECURE OWNERSHIP OF THE WASHINGTON SQUARE APARTMENT COMPLEX IN THE AMOUNT OF \$424,361.43, WITH THE INTENT TO REHAB AND TRANSFER THE COMPLEX TO THE AKRON METROPOLITAN HOUSING ASSOCIATION (AMHA) AT FAIR MARKET VALUE, AS PART OF THE NORTON HOMES RELOCATION AGREEMENT, AND DECLARING AN EMERGENCY. It was moved by Mr. Anderson, seconded by Mr. Avant, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. Mr. Anderson said he would like to thank the Planning Department for finding the money to purchase this property. He said that no city funds would be used for the rehab. President Maurer called for the vote on suspension. All Members voted “yea.” Motion carried. It was moved by Mr. Anderson, seconded by Mr. Avant, that **ORDINANCE NO. 100-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 101-2009

ORDINANCE NO. 101-2009. PRESENTED BY: MR. JUDGE. TITLE: ENTER INTO CONTRACT – STORM SEWER REPAIRS – KNL EXCAVATING. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH KNL EXCAVATING, IN THE AMOUNT OF \$8,943.20, TO PERFORM EMERGENCY STORM SEWER REPAIRS AT HERMS COURT, 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. Mr. Palmer, Service Director, said this was truly an emergency at Herms Court. He said the storm sewer completely caved in, so they had to move very quickly to get it repaired. President Maurer called for the vote on suspension. All Members voted “yea.” Motion carried. It was moved by Mr. Judge, seconded by Mr. Suboticki, that **ORDINANCE NO. 101-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 102-2009

ORDINANCE NO. 102-2009. PRESENTED BY: MR. JUDGE. TITLE: ENTER INTO CONTRACT – STREETS – PURCHASE OF LEAF PICKUP MACHINE. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH JACK DOHENY SUPPLIES, WITHOUT COMPETITIVE BIDDING BEING A SOLE SOURCE PROVIDER, TO PURCHASE AN ARM LEAF PICKUP MACHINE, IN THE AMOUNT OF \$41,000, 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. Mr. Palmer said this ordinance says without competitive bidding; however, there is one other vendor, but the vendor is from out of State. He said the chassis was purchased last year, so the hopper and arm will go on that piece of equipment. He said it is a one-man operation. Mr. Palmer said they will keep adding quality equipment in order for our leaf program to continue to get better. President Maurer called for the vote on suspension. All Members voted “yea.” Motion carried. It was moved by Mr. Judge, seconded by Mr. Suboticki, that **ORDINANCE NO. 102-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 103-2009

ORDINANCE NO. 103-2009. PRESENTED BY: MR. JUDGE. TITLE: ENTER INTO CONTRACT – ODOT – 15TH STREET BRIDGE RECONSTRUCTION. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) TO RECONSTRUCT THE 15TH STREET BRIDGE OVER ABC RAILROAD, 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. Mr. Avant said he would like a timeframe on this project. Mr. Sawyer, City Engineer, said the passage of this ordinance will give ODOT the green light to go ahead and start land acquisition for the bridge; the final plans/approval would be submitted to the ODOT Central Office by

January 2010; the bidding process and construction should begin in March of 2011; and the project should be completed by 2013. President Maurer called for the vote on suspension. All Members voted “yea.” Motion carried. It was moved by Mr. Judge, seconded by Mr. Suboticki, that **ORDINANCE NO. 103-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO.104-2009

ORDINANCE NO. 104-2009. 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, CONSTITUTING A ONE YEAR EXTENSION OF THE CURRENT CONTRACT FOR THE CITY’S PROPERTY/VEHICLE/LIABILITY INSURANCE COVERAGE, 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. 104-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 105-2009

ORDINANCE NO. 105-2009. PRESENTED BY: MR. AVANT. TITLE: INTER-FUND CASH ADVANCE – APPROPRIATION – WASHINGTON SQUARE APARTMENT COMPLEX. AN ORDINANCE AUTHORIZING AN INTER-FUND CASH ADVANCE AND APPROPRIATION OF \$424,361.43 FROM THE INFRASTRUCTURE IMPROVEMENT RESERVE FUND TO THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP) GRANT FUND TO PROVIDE TEMPORARY FUNDING OF THE AMOUNTS OWED TO FIRST MERIT BANK AND OHIO CAP UNTIL THE STATE NSP FUNDS ARE RECEIVED, 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. 105-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 106-2009

ORDINANCE NO. 106-2009. PRESENTED BY: MR. AVANT. TITLE: AMENDING ORD. NO. 58-2009 – EMPLOYEE COMPENSATION AND PAY GRADES FOR NON-BARGAINING EMPLOYEES. AN ORDINANCE AMENDING ORDINANCE NO. 58-2009 TO REFLECT A 3% INCREASE IN PAY GRADES FOR NON-BARGAINING EMPLOYEES, AS WELL AS A 3% INCREASE IN EMPLOYEE COMPENSATION FOR THOSE NON-BARGAINING EMPLOYEES WHO ARE LISTED IN SECTIONS 1 AND 2 OF THIS ORDINANCE, MAKING THESE INCREASES RETROACTIVE TO THE FIRST PAY IN JANUARY 2009, 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. 106-2009 BE ADOPTED.** Mr. Judge said this is one of those pieces of legislation, along with the next one, that is a difficult decision because of the economic climate that we are in today. He said he feels forced to vote against these two ordinances. He said he does not like voting against pay raises especially for our dedicated, deserving, hard working employees, but when you are in this type of economic climate, you have to look at every cost and see what you can do to save. Mr. Judge said alternatives were given and there was not much discussion about them. He said he would have liked to have seen the creation of numbers to see where these alternatives would have gone in the short term and the long term. He said that is where we have to look -- the long term. Mr. Judge said he will be voting “no” on these two pieces of legislation. He said it is not because it is not deserving, it is about having the money -- if it is in the budget this year -- and about long term. He said we do not know how bad this economic crisis is going to get. President Maurer called for the vote on adoption. Mr. Avant, Mr. Anderson, Mr. Suboticki, Mr. Dippel, Mr. Megyes, Mr. Silva, and Mr. Soyars voted “yea.” Mr. Judge voted “nay.” Motion carried.

ORDINANCE NO. 107-2009

ORDINANCE NO. 107-2009. PRESENTED BY: MR. AVANT. TITLE: AMENDING ORD. NO. 181-2008 – EMPLOYEES NOT INCLUDED IN NON-BARGAINING PAY GRADES. AN ORDINANCE AMENDING ORDINANCE NO. 181-2008 REGARDING EMPLOYEES WHO ARE NOT INCLUDED IN THE NON-BARGAINING EMPLOYEES PAY GRADE ORDINANCE, BY INCREASING THE SALARIES OF CERTAIN EMPLOYEES BY 3%, RETROACTIVE TO THE FIRST PAY OF JANUARY 2009, 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. 107-2009 BE ADOPTED.** Mr. Anderson, Mr. Megyes, Mr. Suboticki, Mr. Dippel, Mr. Soyars, Mr. Avant, and Mr. Silva voted “yea.” Mr. Judge voted “nay.” Motion carried.

ORDINANCE NO. 108-2009

ORDINANCE NO. 108-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION - PARKS. AN ORDINANCE APPROPRIATING \$3,500 FROM THE UNAPPROPRIATED ITEM OF THE GENERAL FUND TO THE PARKS DEPARTMENT OPERATING BUDGET, DUE TO A DONATION FROM THE BARBERTON AREA JAYCEES, 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. 108-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

SECOND READING OF ORDINANCES AND RESOLUTIONS

None.

THIRD 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 – June 22, 2009.* It was moved by Mr. Avant, seconded by Mr. Judge, that **ORDINANCE NO. 75-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

APPOINTMENTS

None.

MISCELLANEOUS AND UNFINISHED BUSINESS

President Maurer said next Monday is the fifth Monday of June, so there will be no meeting. He said the next regular scheduled meeting will be on July 6th for the Committee of the Whole.

President Maurer said Mr. Silva is celebrating his birthday today, so he is wished a happy one.

Mr. Megyes said he would like to thank Barberton Boy Scout Troop 110 for their efforts in cleaning Lake Anna Park and he would also like to thank Rob Engler, who helped him clean up Decker Park. He said there is a Van Hyning Neighborhood Meeting this Wednesday at 7:00 p.m. at the Active Adult Center

COMMUNICATION FROM THE MAYOR

Mayor Genet said Park Pride Day was held over the weekend with about 50 volunteers collecting approximately 40 bags of trash. He said Mr. Soyars did this last year at one of the parks, so they tried to expand on his thought to make this a citywide program. He said it was a great effort and hopefully it will be done annually. He said everyone went to the Active Adult Center after the cleanup where they were fed ... thanks to George Brown from Giant Eagle, who

once again donated enough food for probably 150 people. He asked everyone to thank George Brown when shopping at Giant Eagle.

Mayor Genet said Edgewood Park has the new water facility that is being used a lot.

Mayor Genet said back in February he appointed a committee of six individuals to take a look at the Barberton Health Department. He said their task was to look at its function and structure, visit with Akron and Summit County Health Departments, and to come back with an unbiased report recommending how we should move forward. He said as Mr. Judge pointed out today, we need to consider “long term” in our decision. He said the report came back a few weeks ago and he met with the committee to have a personal debriefing to get some feedback from them and he then went through all of their findings and the supplemental information they used to support their documentation. He said he met with Gene Nixon and Russ Pry, Lou Maholic, Eddie Lawson, our Health Commissioner, Paulette Kline, and then with the Health Department employees. He said he will give Council the report this evening. He said this is not going to be rushed. He said he is sure Council, the Health Department employees, and AFSCME leadership will have questions. He said a time will be scheduled to sit down and talk about this in an open forum to do a “Q and A” session. He said we sort of went through this exercise a few years ago, but nothing came of it. He said in the best interest of everyone -- the residents it serves, the employees of the Health Department, and the City -- we need to gather the information to be able to make a decision to go forward, a decision which will affect everyone in the long term. He said he does sympathize with the Health Department employees because every time they go through the budget process, it always seems like the Health Department gets thrown under the bus. He said in order to provide the quality of public health services that we need in a stable working environment, he firmly believes that contracting with the County is the way to do that. He said he will not agree to that unless a facility is here and the services will be provided here in the manner that they are provided today. He said he mentioned that concern in February and today, and he will continue to mention it. He said there will be some changes, but those changes will all be worked out. He said he wants Mr. Maurer and Mr. Soyars to set up a time so that a meeting can be held.

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

Adjourned: 8:07 P.M.

Frederick S. Maurer
President of Council

Susan Matuch
Clerk of Council