

Council met in **REGULAR SESSION** on Monday, July 13, 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. Suboticki 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 22, 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**

##### **RESOLUTION NO. 109-2009**

**RESOLUTION NO. 109-2009. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. ANDERSON. TITLE: COMMENDATION – JOE PETERS. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO HONOR AND GIVE PUBLIC RECOGNITION TO JOE PETERS FOR THE MANY YEARS HE SERVED ON THE PARKS AND RECREATION COMMISSION AND FOR HIS NUMEROUS VOLUNTEER HOURS FOR PARKS EVENTS.** 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 Joe was always at the Summer Concert Series talking to people and people enjoyed talking with him. He said Joe supplied the popcorn for Fall Family Fun Nights and he pushed for reducing the amount charged for food so families could enjoy that night without having to spend a lot of money. Mr. Avant said he wanted to thank Joe for all the hours he spent helping the community because people like Joe make a difference in the community. 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 **RESOLUTION NO. 109-2009 BE ADOPTED.** Mr. Suboticki said he would like to thank Mr. Peters for all he has done in the parks and for being a fellow Ward 1 resident. Mr. Wildman said he wanted to thank Mr. Peters for truly supporting him and his staff throughout the time he spent on the Parks Commission. He said they did not always agree on everything, but the one thing they did agree on was how important the children of this community are to our future. Mr. Judge said he wanted to thank Joe for his years of dedication and hard work. He said he appreciated the way he voted because he was one of the people who did research and voted accordingly. President Maurer said Joe's service to the city was all gratis -- all from the heart for the good of the community. He said we always knew where Joe Peters stood and we knew that he made his decisions because he felt it was the right thing to do. Mayor Genet said he does not think anyone was at the concerts working harder than Joe, talking to the people and collecting donations. He said he wore his colors on his sleeve and he has a lot of respect for that. He said he knows Joe will not stay on the sidelines; he will be involved in the City. President Maurer called for the vote on adoption. All Members voted "yea." Motion carried. It was moved by Mr. Anderson, seconded by Mr. Suboticki, to recess in order to give Mr. Peters his resolution.

Recessed: 7:42 p.m.

Reconvened: 7:47 p.m.

Mr. Peters told Mr. Palmer that he is watching those swing sets at Newton Park because it took him three years to get them, and that was probably one of his biggest accomplishments. He said

he always tried to fight for the underdog. He said it is up to all of us to make sure our kids and grandkids can learn and grow in these parks. He said he fought for every kid and he told the Mayor and Council to always fight for the average person in this community because they deserve it. He said the parks have come a long way under Mr. Wildman's leadership. He said he enjoyed being on the Parks Commission and he is going to miss it.

#### **RESOLUTION NO. 110-2009**

**RESOLUTION NO. 110-2009. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. ANDERSON. TITLE: COMMENDATION – AFSCME LOCAL 265. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON HONORING AND GIVING PUBLIC RECOGNITION TO AFSCME LOCAL 265 FOR THEIR SPONSORSHIP OF THE LAKE ANNA CONCERT SERIES, AS WELL AS THE CITY'S BEAUTIFICATION PROGRAM.** 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. Avant, seconded by Mr. Avant, that **RESOLUTION NO. 110-2009 BE ADOPTED.** Mayor Genet said this resolution and the following one are good examples of organizations stepping up and helping the City to improve the quality of life, with AFSCME Local 265 donations to the Summer Concert Series and Barberton Area Jaycees stepping up with a donation to sponsor the fireworks. President Maurer called for the vote on adoption. All Members voted "yea." Motion carried.

#### **RESOLUTION NO. 111-2009**

**RESOLUTION NO. 111-2009. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. ANDERSON. TITLE: COMMENDATION – BARBERTON AREA JAYCEES. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON HONORING AND GIVING PUBLIC RECOGNITION TO THE BARBERTON AREA JAYCEES FOR THEIR SPONSORSHIP OF THE LABOR DAY FIREWORKS PROGRAM AND THE MANY YEARS OF DEDICATED SERVICE THEY HAVE GIVEN TO THE CITY OF BARBERTON AND ITS RESIDENTS.** 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 **RESOLUTION NO. 111-2009 BE ADOPTED.** All Members voted "yea." Motion carried.

#### **ORDINANCE NO. 112-2009**

**ORDINANCE NO. 112-2009. PRESENTED BY: MR. SUBOTICKI. TITLE: ZONING MAP AMENDMENT – BARBERTON WHEEL ALIGNMENT. AN ORDINANCE AUTHORIZING THE REZONING OF 1158, 1164, AND 1170 WOOSTER ROAD WEST (BARBERTON WHEEL ALIGNMENT) FROM C-2 (NEIGHBORHOOD COMMERCIAL) TO C-4 (HIGHWAY COMMERCIAL).** 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. 112-2009 BE ADOPTED.** Mr. Suboticki said this is another rezoning request that many consider spot zoning. He said Mr. Koncz has done a lot of work on that property for which he is grateful. He said he does not feel it is in the best interest of the City to rezone that property from C-2 to C-4. Mr. Suboticki said it was not approved by the Planning Commission based upon the Finding of Facts and the Planning Commission recommended that Council not approve it. Mr. Anderson said Barberton Wheel Alignment is in his ward. He said he talked to Mr. Koncz and he realizes that the rezoning will probably be voted down tonight, but it gives him the opportunity to appeal the decision. Mayor Genet said he thinks all Mr. Koontz is looking for is to sell cars and the only way he can sell cars is to rezone to C-4, which he is opposed. He said, however, right beside him is a car lot, so it is a very confusing issue. President Maurer called for the vote on adoption. No Member voted "yea." All Members voted "nay." Motion failed, 0-8.

#### **ORDINANCE NO. 113-2009**

**ORDINANCE NO. 113-2009. PRESENTED BY: MR. SILVA. TITLE: ENTER INTO CONTRACT – REGIONAL 800 MHZ RADIO SYSTEM USER AGREEMENT. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT ACCEPTING THE REVISIONS TO THE CONTRACT PREVIOUSLY SIGNED BETWEEN THE CITY OF BARBERTON AND COUNTY OF SUMMIT/CITY OF**

**AKRON FOR THE “REGIONAL 800 MHZ RADIO SYSTEM USER AGREEMENT,” AND DECLARING 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. Silva, seconded by Mr. Anderson, that **ORDINANCE NO. 113-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 114-2009**

**ORDINANCE NO. 114-2009. PRESENTED BY: MR. DIPPEL. TITLE: GAS AGGREGATION PROGRAM – ADOPTION OF PLAN OF OPERATION. AN ORDINANCE ADOPTING THE UPDATED PLAN OF OPERATION AND GOVERNANCE FOR THE GAS AGGREGATION PROGRAM FOR THE CITY OF BARBERTON; AND REPEALING ORDINANCE NO. 105-2005 THAT ADOPTED A GAS AGGREGATION PLAN, 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. 114-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**RESOLUTION NO. 115-2009**

**RESOLUTION NO. 115-2009. PRESENTED BY: MR. MEGYES. TITLE: TAX INCENTIVE REVIEW COUNCIL – PPG INDUSTRIES, INC. A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE TAX INCENTIVE REVIEW COUNCIL REGARDING THE ENTERPRISE ZONE AGREEMENT WITHIN THE CITY OF BARBERTON (PPG INDUSTRIES), 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 **RESOLUTION NO. 115-2009 BE ADOPTED.** Mr. Suboticki said he attended this meeting with Ms. Sheridan. He said PPG has always fulfilled, and actually surpassed, their obligations to the City under this agreement so that is why it has been extended. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

**ORDINANCE NO. 116-2009**

**ORDINANCE NO. 116-2009. PRESENTED BY: MR. MEGYES. TITLE: TERMINATION OF TAX ABATEMENT AGREEMENT – ECS TUNING. AN ORDINANCE AUTHORIZING THE MAYOR TO TERMINATE THE URBAN JOBS AND ENTERPRISE ZONE TAX ABATEMENT AGREEMENT WITH THE COUNTY OF SUMMIT AND ECS TUNING, AS APPROVED BY ORDINANCE NO. 199-2007, 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. 116-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 117-2009**

**ORDINANCE NO. 117-2009. PRESENTED BY: MR. MEGYES. TITLE: ENTER INTO GRANT AGREEMENTS – COUNTY NEIGHBORHOOD STABILIZATION PROGRAM. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO GRANT AGREEMENTS AND RELATED ASSURANCES, CERTIFICATIONS, AND CONTRACTS WITH NEIGHBORHOOD DEVELOPMENT SERVICES (NDS), TO CARRY OUT COUNTY NEIGHBORHOOD STABILIZATION PROGRAM HOUSING RELATED ACTIVITIES FOR \$630,000, 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. 117-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 118-2009**

**ORDINANCE NO. 118-2009. PRESENTED BY: MR. MEGYES. TITLE: ENTER INTO CONTRACT – COUNTY OF SUMMIT. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH THE COUNTY OF SUMMIT FOR**

**\$980,000, IN ORDER FOR THE PLANNING DEPARTMENT TO CARRY OUT COUNTY NEIGHBORHOOD STABILIZATION PROGRAM ACTIVITIES, 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. 118-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 119-2009**

**ORDINANCE NO. 119-2009. PRESENTED BY: MR. ANDERSON. TITLE: DONATION OF VACUUM SWEEPER. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO DONATE A LARGE VACUUM SWEEPER NO LONGER NEEDED AND NO LONGER USED BY THE PARKS DEPARTMENT TO THE BARBERTON BAND BOOSTERS, 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. 119-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 120-2009**

**ORDINANCE NO. 120-2009. PRESENTED BY: MR. ANDERSON. TITLE: PURCHASE OF PROPERTY – 43/45 BROWN STREET. AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT TO PURCHASE THE PROPERTY AT 43/45 BROWN STREET FOR \$15,000, 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. 120-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 121-2009**

**ORDINANCE NO. 121-2009. PRESENTED BY: MR. ANDERSON. TITLE: PURCHASE OF PROPERTIES – 317/319 AND 321 WUNDERLICH AVENUE. AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT TO PURCHASE THE PROPERTIES AT 317/319 WUNDERLICH AVENUE FOR \$28,000, PLUS CLOSING COSTS, AND 321 WUNDERLICH AVENUE FOR \$26,000, 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. 121-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 122-2009**

**ORDINANCE NO. 122-2009. PRESENTED BY: MR. ANDERSON. TITLE: SALE OF WATER METER – BARBERTON CITY SCHOOLS. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO SELL A USED THREE INCH COMPOUND WATER METER NO LONGER USED BY THE UTILITIES DEPARTMENT TO THE BARBERTON CITY SCHOOLS FOR \$850, AND DECLARING AN EMERGENCY.** It was moved by Mr. Anderson, 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. Anderson, seconded by Mr. Dippel, that **ORDINANCE NO. 122-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 123-2009**

**ORDINANCE NO. 123-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – PROJECT IMPACT. AN ORDINANCE APPROPRIATING \$17,809.53 FROM THE UNAPPROPRIATED ITEM OF THE PROJECT IMPACT FUND TO THE BUILDING DEPARTMENT OPERATING BUDGET, TO CONTINUE DEMOLITION PROJECTS, 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. 123-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 124-2009**

**ORDINANCE NO. 124-2009. PRESENTED BY: MR. AVANT. TITLE: COUNTY NSP APPROPRIATION. AN ORDINANCE APPROPRIATING \$980,000 FROM THE UNAPPROPRIATED ITEM OF THE COUNTY NEIGHBORHOOD STABILIZATION PROGRAM FUND TO THE PLANNING DEPARTMENT OPERATING BUDGET, TO CARRY OUT COUNTY NEIGHBORHOOD STABILIZATION PROGRAM 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. 124-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 125-2009**

**ORDINANCE NO. 125-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – KCI ASSOCIATES OF OHIO – 15<sup>TH</sup> STREET BRIDGE. AN ORDINANCE APPROPRIATING \$12,000 FROM THE UNAPPROPRIATED ITEM OF THE INFRASTRUCTURE IMPROVEMENT RESERVE FUND TO THE STREET DEPARTMENT OPERATING BUDGET, IN ORDER TO PAY KCI ASSOCIATES OF OHIO FOR PROFESSIONAL SERVICES FOR THE 15<sup>TH</sup> STREET BRIDGE, 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. 125-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**SECOND READING OF ORDINANCES AND RESOLUTIONS**

None.

**THIRD READING OF ORDINANCES AND RESOLUTIONS**

None.

**APPOINTMENTS**

None.

**MISCELLANEOUS AND UNFINISHED BUSINESS**

The Clerk read the following Liquor License Requests:

To: Adam Huseins, Inc., DBA Magics Mart & Drive Thru, 618 Wooster Road W., Barberton.

To: Yasen, Inc., DBA Minit Mart, 1077 Wooster Road W., Barberton.

The Clerk said that no objections were received.

Mr. Megyes said last Thursday he had a Van Hyning Neighborhood Watch Meeting and 28 people attended. He said he would like to thank Joe Stefan for doing such a good job. He said when you hire Joe to speak, you get two for one -- a School Board Member and an Assistant Planning Director. He said the Van Hyning Neighborhood will be having a yard sale this weekend. He said there are eleven streets involved. He said there should be quite a few people participating.

Mr. Judge said this weekend is the Relay for Life at Lake Anna, which is a great event. He said Barberton always does a lot better than the surrounding cities.

Mr. Judge said this Thursday a Skill/Job Fair is scheduled at the Active Adult Center at 4:00 p.m.

Mr. Suboticki said there is a Planning Commission Meeting this Wednesday at 6:30 p.m.

**COMMUNICATION FROM THE MAYOR**

Mayor Genet said last Wednesday a meeting was held with the Health Department/Board of Health and Summit County. He said it was well attended. He said they will continue to have this dialogue during the next four to six weeks. He said if anyone has any further questions, make sure to get them to him.

Mayor Genet said this Friday he and Mr. Avant will be heading to the City of Bedford. He said he met the Mayor of Bedford at a conference in Cleveland and, surprisingly enough, they also have housing/rental issues. He said the Mayor told him they have a program to address those issues. He said he realizes the demographics are somewhat different, but hopefully they will be able to come back with some useful information.

Mayor Genet said they are going to continue to spend all this NSP money coming into the City, with the CDBG money, on housing. He said it is an area of concern and an area that needs to be addressed. He said we are not going to correct this overnight because it did not happen overnight, but with the influx of this money, we are going to see a significant difference. He said we need to let our constituents know that they must report any vacant/abandoned house in their neighborhood. He said they cannot assume we know about it. He said if we do not get a report on it, it may not be in our database.

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

Adjourned: 8:21 P.M.

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Frederick S. Maurer  
President of Council

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Susan Matuch  
Clerk of Council