

Council met in **REGULAR SESSION** on Monday, September 28, 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. Megyes 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, September 14, 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 Special Meeting held on Monday, September 21, 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. 161-2009

RESOLUTION NO. 161-2009. PRESENTED BY: ALL OF COUNCIL. CO-SPONSORED BY: MR. MAURER AND MR. SILVA. TITLE: COMMENDATION – MRS. CHRISTINE WALLET. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO HONOR AND GIVE PUBLIC RECOGNITION TO MRS. CHRISTINE WALLET AS SHE CELEBRATES HER 95TH BIRTHDAY ON SEPTEMBER 30TH. 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. President Maurer said it is an honor to recognize a lady of Christine's stature and her contributions to the City. Mayor Genet said he had the opportunity to work with Mrs. Wallet at Marshall's Department Store. He said they had a lot of fun and he values the time he spent with her. He said he wants to commend her for everything she has achieved in her life and he knows that she must be very proud of her great family, her grandchildren, and great-grandchildren. President Maurer called for the vote on adoption. All Members voted "yea." Motion carried. It was moved by Mr. Silva, seconded by Mr. Anderson, that **RESOLUTION NO. 161-2009 BE ADOPTED.** All Members voted "yea."

Motion carried. It was moved by Mr. Silva, seconded by Mr. Anderson, to recess to present the resolution to Mrs. Wallet.

Recessed: 7:40 p.m.

Reconvened: 7:42 p.m.

RESOLUTION NO. 162-2009

RESOLUTION NO. 162-2009. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. AVANT. TITLE: COMMENDATION – DAVID JACOBS. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO HONOR AND GIVE PUBLIC RECOGNITION TO DAVID JACOBS FOR THE HEROIC ACTIONS TAKEN TO EXTINGUISH A HOUSE FIRE AT 24TH STREET AND LIBERTY AVENUE, POSSIBLY SAVING THE LIVES OF HAROLD AND LINDA TURK AND THEIR SON. 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 **RESOLUTION NO. 162-2009 BE ADOPTED.** Mr. Avant said David could have called emergency and gone on to work, but he stopped and did what he had to do and, most probably, saved the home and lives of those residents. He said it is an honor to have him in his ward and neighborhood. President Maurer said every day in our lives we see heroism and this is a classic example. He said he is sure Mr. Jacobs did not give any thought to the recognition he would receive -- he just thought about someone else who so desperately needed help. Mayor Genet said it is hard to say what would have come about if Mr. Jacobs had not been there at that time and acted in the manner in which he did. He said Mr. Avant stated that he is proud Mr. Jacobs is in his ward; he would like to add that we are all proud that he is in our City. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried. It was moved by Mr. Avant, seconded by Mr. Judge, to recess to present the resolution to Mr. Jacobs.

Recessed: 7:47 p.m.

Reconvened: 7:49 p.m.

RESOLUTION NO. 163-2009

RESOLUTION NO.163-2009. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. AVANT. TITLE: COMMENDATION – SEAN FULLER. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO HONOR AND GIVE PUBLIC RECOGNITION TO SEAN FULLER FOR BEING CHOSEN THE 2009 AMERICAN LEGION BUCKEYE BOYS STATE REPRESENTATIVE FROM BARBERTON HIGH SCHOOL. 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 **RESOLUTION NO. 163-2009 BE ADOPTED.** Mr. Avant said it is nice to see the young people in our school system set high goals and work hard to achieve them. He said this is quite an achievement for Sean and he would like to congratulate him on being chosen. Mayor Genet said all of Sean’s achievements mentioned in this resolution did not come about without a lot of hard work and dedication. He said we are very proud to have Sean in our community. President Maurer said his achievements

are very impressive and we are very glad to see this. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried. It was moved by Mr. Avant, seconded by Mr. Judge, to recess to present the resolution to Sean Fuller.

Recessed: 7:54 p.m.

Reconvened: 7:56 p.m.

ORDINANCE NO. 164-2009

ORDINANCE NO. 164-2009. PRESENTED BY: MR. ANDERSON. TITLE: DONATION OF CANNON. AN ORDINANCE AUTHORIZING THE MAYOR TO DONATE ONE OF THE CANNONS OWNED BY THE CITY TO THE OHIO VETERANS MEMORIAL PARK, 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 can not think of a greater resting place for the cannon. He said for the cannon to be the first thing people see when they enter the Park is a great tribute to the City, and the Barberton bench will be beside it. 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. 164-2009 BE ADOPTED.** Mayor Genet said he was contacted about donating the City’s two cannons and his personal opinion was that it would be the best resting place for them. He said he exchanged dialogue with the VFW to make sure Post #1066 was in agreement with that, and they sent a letter to support it. He said he also checked with the Parks and the Historical Society, and it was Mr. Kelleher of the Historical Society who suggested that we retain ownership. He said in the event something should take place years from now and the park would close, the cannon will return to Barberton. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

RESOLUTION NO. 165-2009

RESOLUTION NO. 165-2009. PRESENTED BY: MR. DIPPEL. TITLE: ENTER INTO AGREEMENT – WASTEWATER TREATMENT PLANT PROJECT – WPCLF LOAN. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON AUTHORIZING THE MAYOR TO APPLY FOR, ACCEPT, AND ENTER INTO A WATER POLLUTION CONTROL LOAN FUND AGREEMENT (WPCLF) ON BEHALF OF THE CITY OF BARBERTON IN THE AMOUNT OF \$2,000,000 FOR PLANNING, DESIGN AND/OR CONSTRUCTION OF WASTEWATER FACILITIES; AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN; AND REPEALING ORD. NO. 87-2009 TO CORRECT THE NAME OF THE ORGANIZATION, 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. 165-2009 BE ADOPTED.** Mr. Suboticki asked what the dedicated repayment source of the loan would be. Mr. Flickinger, Finance Director, said the dedicated repayment source would be the Sewer Operating Fund. He said in order to have money to pay on loans, you have to have rates that could accommodate the loan payment. Mr. Suboticki asked if we would be looking for an increase. Mr. Flickinger said he could not say that at this time because he has not seen the debt schedule for the loan so he has no idea what the

terms of the loan would be. Mr. Palmer, Director of Public Service, said for quite a few years they have been putting money back in that Fund, so there is considerable money set aside for the engineering, etc. He said we may be looking at a small increase for this year, but we have not increased sewer for quite some time. He said this project is desperately needed in order to position us for future plans that we have, especially with Summit County or Norton. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

RESOLUTION NO. 166-2009

RESOLUTION NO. 166-2009. PRESENTED BY: MR. JUDGE. TITLE: AMEND RESOLUTION OF NECESSITY – 2009 RESIDENTIAL RESURFACING PROGRAM – AMEND RES. NO. 74-2009. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON AMENDING RESOLUTION NO. 74-2009, DECLARING THE NECESSITY TO IMPROVE SECTIONS OF CERTAIN STREETS THROUGH THE “2009 RESIDENTIAL STREET RESURFACING PROGRAM,” BY DELETING MAY STREET AND AKRON VIEW DRIVE FROM THE ORIGINAL LIST AND BY ADDING 28TH STREET, NW (FROM LIBERTY AVENUE TO BELLEVIEW AVENUE) TO THE ORIGINAL LIST, 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. 166-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 167-2009

ORDINANCE NO. 167-2009. PRESENTED BY: MR. JUDGE. TITLE: 2009 SIDEWALK REPLACEMENT AND FILL-IN PROGRAM. AN ORDINANCE ESTABLISHING THE CITY’S CONTRIBUTION TO THE 2009 SIDEWALK REPLACEMENT AND FILL-IN PROGRAM, 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. 167-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 168-2009

ORDINANCE NO. 168-2009. PRESENTED BY: MR. JUDGE. TITLE: ENTER INTO CONTRACT – 2009 SIDEWALK REPLACEMENT AND FILL-IN PROGRAM. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH THE LOWEST AND/OR BEST BIDDER AS DETERMINED AND AWARDED BY THE BOARD OF CONTROL, FOR THE 2009 SIDEWALK REPLACEMENT AND FILL-IN PROGRAM, TO REPLACE/REPAIR RESIDENTIAL AND CITY-OWNED SIDEWALK, 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. 168-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 169-2009

ORDINANCE NO. 169-2009. PRESENTED BY: MR. AVANT. TITLE: ENTER INTO CONTRACT – HUMAN RESOURCES. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH EMPLOYEE BENEFITS INTERNATIONAL, INC., IN THE AMOUNT OF \$28,800, TO SERVE AS THE HEALTH CARE CONSULTANT FOR THE CITY OF BARBERTON, 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. Avant, that **ORDINANCE NO. 169-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 170-2009

ORDINANCE NO. 170-2009. PRESENTED BY: MR. AVANT. TITLE: AUTHORIZE PAYMENT – KENMORE CONSTRUCTION COMPANY. AN ORDINANCE AUTHORIZING THE DIRECTOR OF FINANCE TO PAY AN INVOICE TO KENMORE CONSTRUCTION COMPANY, IN THE AMOUNT OF \$18,489.50, FOR EMERGENCY SANITARY SEWER REPAIRS MADE ON NORTON AVENUE AT THE STADIUM LOCATION, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, 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. Avant, seconded by Mr. Dippel, that **ORDINANCE NO. 170-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 171-2009

ORDINANCE NO. 171-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – 2009 SIDEWALK REPLACEMENT AND FILL-IN PROGRAM. AN ORDINANCE APPROPRIATING \$25,000 FROM THE UNAPPROPRIATED ITEM OF THE SIDEWALK IMPROVEMENT PROGRAM FUND TO THE SIDEWALK PROGRAM CAPITAL BUDGET, TO BE USED FOR THE 2009 SIDEWALK REPLACEMENT AND FILL-IN PROGRAM, 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. Mr. Palmer said \$25,000 has been transferred over, so this will give us a total of about \$50,000 for the program. President Maurer said he realizes that things are a bit rough right now, but down the road if “curbing” could be added to this program if at all possible, it would be a real nice second step to improve our abilities for stormwater control and it does look nicer. President Maurer called for the vote on suspension. All Members voted “yea.” Motion carried. It was moved by Mr. Avant, seconded by Mr. Judge, that **ORDINANCE NO. 171-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

SECOND READING OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 141-2009

ORDINANCE NO. 141-2009. PRESENTED BY: MR. SUBOTICKI. TITLE: BOUNDARY ADJUSTMENT – CITY OF BARBERTON / CITY OF NORTON. AN ORDINANCE DETERMINING TO CHANGE THE BOUNDARY LINE SEPARATING THE CITY OF BARBERTON AND THE CITY OF NORTON BY MUTUAL AGREEMENT OF THE CITY OF BARBERTON AND THE CITY OF NORTON, PURSUANT TO SECTION 709.37 OF THE REVISED CODE.

First Reading – September 14, 2009. Second Reading – September 28, 2009.

ORDINANCE NO. 153-2009

ORDINANCE NO. 153-2009. PRESENTED BY: MR. JUDGE. TITLE: INTENTION TO PROCEED – 2009 RESIDENTIAL STREET RESURFACING PROGRAM. AN ORDINANCE OF THE COUNCIL OF THE CITY OF BARBERTON STATING THE INTENTION TO PROCEED WITH THE 2009 RESIDENTIAL STREET RESURFACING PROGRAM, AND DECLARING AN EMERGENCY. It was moved by Mr. Judge, seconded by Mr. Suboticki, to **AMEND ORDINANCE NO. 153-2009** in order to remove May Street and Akron View Drive and to add 28th Street NW, from Liberty Avenue to Belleview Avenue to the ordinance. (Ordinance No. 153-2009, dated 09/25/09) All Members voted “yea.” Motion carried. 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. 153-2009 BE ADOPTED, AS AMENDED.** All Members voted “yea.” Motion carried.

THIRD READING OF ORDINANCES AND RESOLUTIONS

None.

APPOINTMENTS

None.

MISCELLANEOUS AND UNFINISHED BUSINESS

The Clerk read the following Liquor License Transfer Request:

From: Kapolis Corporation, DBA Thanos Family Restaurant, 71 5th Street, SE, Barberton.

To: Kapolis Corporation 2, DBA Thanos Family Restaurant, 71 5th Street, SE, Barberton.

The Clerk said no objections were received.

The Clerk read the following New Liquor License Request:

To: Walgreen Company, DBA Walgreen’s 04776, 900 Wooster Road, N., Barberton.

The Clerk said no objections were received.

President Maurer said we really had a great turnout for the Mum Fest on Sunday. He said this is really something nice for the City to do.

President Maurer said he had a personal episode today regarding trash pickup. He said his trash was not picked up and he discovered, after calling the Service Department, that there is a fifty-pound weight limit. He said we may want to put that information on the water bills.

Mr. Wildman said he wanted to thank everyone for their help this past weekend. He said festivals like that do not take place and do not go well unless the entire community gets behind it.

Mr. Wildman said this Saturday evening at 5:00 p.m. is the Fall Family Fun Night at the Sports Complex and they still have tickets for the Youth In Action Reverse Raffle.

COMMUNICATION FROM THE MAYOR

Mayor Genet said AMHA received a five-million-dollar grant to renovate the Allen Dickson Apartments, which will be good for that facility and the City of Barberton.

Mayor Genet said last year Council adopted the Revenue Sharing Agreement with other communities in the County. He said they all agree that this agreement should be reviewed every year. He said to take a look at it and if anyone has any questions or concerns to let him know.

Mayor Genet said he would like to thank everyone who volunteered for the Mum Fest. He said the Beautification Committee, Lisa McLean, and Andy Wildman did an outstanding job. He said it is a pinnacle festival for the City of Barberton. He said it is fantastic to see the chartered busses pulling in on Saturday and Sunday to showcase our City and Lake.

Mayor Genet said today he received a letter from the State Representative of Ohio Council 8, Lou Maholic that AFSCME Local 265, the Barberton Health Department employees, unanimously voted to endorse going with Summit County. He said prior to the meeting held last week with Gene Nixon and Russ Pry, the employees, Lou Maholic, Eddie Lawson, Mr. Megyes, and the Board of Health, he had met with the employees and they voted to endorse it. He said there are tough decisions coming before us. He said adding to what Mr. Anderson mentioned in the committee meeting -- as far as looking at next year -- he is going to take a step further and look four and five years to the future to position the City in a better environment. He said that is why he has engaged these conversations. He said whether he had conversations with the County or not, the Health Department would be facing the financial issues that we are dealing with today. He said he has seen the landscape and it is just something he is trying to pursue in order to position the city in a better financial light to be able to continue to offer the services that are required and needed here. He said there will be a lot more dialogue coming forward, but it is going to move in that direction and hopefully we can get some common resolutions to this whole process. President Maurer said the Mayor should be commended for his concern for the employees, making sure they are covered should this happen. He said for those who do not know what is going on behind the scenes, we are talking about people's livelihoods, people who have been loyal to the City and people who deserve our respect. He said the Mayor is definitely sticking up for them.

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

Adjourned: 8:25 P.M.

Frederick S. Maurer
President of Council

Susan Matuch
Clerk of Council