

Council met in **REGULAR SESSION** on Monday, October 12, 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. Avant 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 28, 2009, as presented. All Members voted "yea." Motion carried.

### **PETITIONS AND CLAIMS**

The Clerk read a thank you note from Ray and Claudia Todd for Council's donation in memory of Ray's mother, Lolita Todd.

The Clerk read from a card received from Elwood and Teresa Palmer thanking Council for the card and thoughtfulness shown because of the passing of Elwood's special aunt.

### **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. 172-2009**

**ORDINANCE NO. 172-2009. PRESENTED BY: MR. SUBOTICKI. TITLE: ENTER INTO GRANT AGREEMENT – PETE'S SUNOCO CLEANUP. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A GRANT AGREEMENT AND RELATED ASSURANCES, CERTIFICATIONS, AND CONTRACTS WITH MALCOLM PIRNIE INC. (MPI), TO CARRY OUT ALL ACTIVITIES RELATED TO THE \$200,000 USEPA BROWNFIELD CLEANUP GRANT FOR THE FORMER PETE'S SUNOCO SITE, 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. 172-2009 BE ADOPTED.** All Members voted "yea." Motion carried.

**ORDINANCE NO. 173-2009**

**ORDINANCE NO. 173-2009. PRESENTED BY: MR. DIPPEL. TITLE: ENTER INTO CONTRACT – UTILITIES – CAMERA TRUCK UPGRADE. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH JACK DOHENY TO PURCHASE EQUIPMENT TO MODERNIZE THE EXISTING CAMERA TRUCK USED TO EVALUATE OUR SEWER SYSTEMS, THROUGH THE OHIO STATE COOPERATIVE PURCHASING PROGRAM, PURSUANT TO ORDINANCE NO. 42-1995, IN THE AMOUNT OF \$60,740 WITH THE CITY’S TRADE-IN CAMERA, 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. 173-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 174-2009**

**ORDINANCE NO. 174-2009. PRESENTED BY: MR. DIPPEL. TITLE: WAIVE SYSTEM DEVELOPMENT CHARGES – BRENTWOOD ALLOTMENT - NORTON. AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF BARBERTON TO WAIVE SYSTEM DEVELOPMENT CHARGES (SDC) FOR THE BRENTWOOD ALLOTMENT IN NORTON, DUE TO THE BOUNDARY AGREEMENT BETWEEN THE CITY OF BARBERTON AND THE CITY OF NORTON.** 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. 174-2009 BE ADOPTED.** Mr. Judge said he is not happy with the way this ordinance and Ordinance No. 141-2009 came about. He said no municipality is going to give up land without some kind of cost. He said he is not happy about the way it was just thrown in there and not really discussed, but he is not going to stand in the way of it because of that. Mr. Judge said it is a good deal for the City and the school system to help Barberton move forward. President Maurer asked Mr. Palmer if the system development charges are under review at this time. Mr. Palmer, Service Director, said they have been reviewing the charges for over a year. He said the way it is established right now, we get increased fees from customers outside of Barberton -- at some point they were double rates and now it is like 1.225 -- and we also charge tap in fees. He said this is a very tough time for, not only the City of Barberton, but for everyone, and that is an awful lot at this particular time. He said development should be at the forefront of all of our concerns, so they are reviewing those to see how they can spur development to come into town. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

**ORDINANCE NO. 175-2009**

**ORDINANCE NO. 175-2009. PRESENTED BY: MR. ANDERSON. TITLE: ENTER INTO CONTRACT – PARKS – NEWTON PARK IMPROVEMENT PROJECT. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES (ODNR), IN THE AMOUNT OF \$99,000, TO PROVIDE CAPITAL IMPROVEMENTS AT NEWTON 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. All Members voted “yea.” Motion carried. It was moved by Mr. Anderson, seconded by Mr. Avant, that **ORDINANCE NO. 175-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 176-2009**

**ORDINANCE NO. 176-2009. PRESENTED BY: MR. ANDERSON. TITLE: ACCEPT DONATION OF PROPERTY – 255 HURON STREET. AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO ENTER INTO CONTRACT TO ACCEPT THE PROPERTY AT 255 HURON STREET AS A DONATION FOR FUTURE DEVELOPMENT, IN EXCHANGE FOR THE PAYMENT OF BACK TAXES, PENALTIES, AND INTEREST, AND IN AN AMOUNT NOT TO EXCEED \$1,500, PLUS CLOSING COSTS, USING CDBG FUNDS, 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. 176-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 177-2009**

**ORDINANCE NO. 177-2009. PRESENTED BY: MR. ANDERSON. TITLE: ACCEPT DONATION OF PROPERTY – 554 W. HOPOCAN AVE. AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO ENTER INTO CONTRACT TO ACCEPT THE PROPERTY AT 554 W. HOPOCAN AVENUE, AS A DONATION, IN EXCHANGE FOR PAYMENT OF 2007 BACK TAXES AND PENALTIES, AND IN THE AMOUNT OF \$3,000, USING CDBG OR STATE NSP FUNDS, 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. 177-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**RESOLUTION NO. 178-2009**

**RESOLUTION NO. 178-2009. PRESENTED BY: MR. AVANT. TITLE: CERTIFYING PROPERTY TAX RATES. A RESOLUTION ACCEPTING THE AMOUNTS AND RATES OF PROPERTY TAX AS DETERMINED BY THE BUDGET COMMISSION OF SUMMIT COUNTY, AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE SUMMIT COUNTY AUDITOR FOR THE YEAR 2010, 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 **RESOLUTION NO. 178-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**RESOLUTION NO. 179-2009**

**RESOLUTION NO. 179-2009. PRESENTED BY: MR. AVANT. TITLE: HEALTH RISK ASSESSMENT – HUMAN RESOURCES DEPARTMENT. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO ALLOW CITY OF BARBERTON EMPLOYEES WHO PARTICIPATE IN THE OCTOBER 28<sup>TH</sup> CITY HEALTH FAIR AND WHO COMPLETE A REQUIRED HEALTH RISK ASSESSMENT TO RECEIVE A RELIEF FROM EMPLOYEE HEALTH CONTRIBUTIONS FOR TWO PAY PERIODS, 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 **RESOLUTION NO. 179-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 180-2009**

**ORDINANCE NO. 180-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – PARKS DEPARTMENT – NEWTON PARK PROJECT. AN ORDINANCE APPROPRIATING \$99,000 FROM THE UNAPPROPRIATED ITEM OF THE PARKS IMPROVEMENT FUND TO THE PARKS IMPROVEMENT FUND CAPITAL BUDGET, DUE TO A GRANT INITIATED BY STATE REPRESENTATIVE JOHN OTTERMAN, TO BE USED FOR THE NEWTON PARK IMPROVEMENT PROJECT, 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. 180-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 181-2009**

**ORDINANCE NO. 181-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – REPAIR OF PAVEMENT – SOUTH VAN BUREN AVENUE. AN ORDINANCE APPROPRIATING \$30,000 FROM THE UNAPPROPRIATED ITEM OF THE PERMISSIVE LICENSE TAX FUND TO THE PERMISSIVE LICENSE TAX FUND CAPITAL BUDGET, IN ORDER TO REPAIR PAVEMENT ON SOUTH VAN BUREN AVENUE, 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. 181-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 182-2009**

**ORDINANCE NO. 182-2009. PRESENTED BY: MR. AVANT. TITLE: TRANSFER OF FUNDS – UTILITIES DEPARTMENT. AN ORDINANCE TRANSFERRING \$25,000 FROM THE WATER DISTRIBUTION CAPITAL BUDGET TO THE WATER PLANT OPERATING BUDGET TO PROVIDE FUNDS FOR CLEANING THE LAGOONS AT THE WATER TREATMENT PLANT, 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. 182-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 183-2009**

**ORDINANCE NO. 183-2009. PRESENTED BY: MR. AVANT. TITLE: CDBG PROGRAM INCOME – TRANSFER/APPROPRIATION. AN ORDINANCE TRANSFERRING \$61,754.56 FROM THE GENERAL FUND TO THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND AND APPROPRIATING SAID \$61,754.56 FROM THE UNAPPROPRIATED ITEM OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND TO THE FY2009 ACQUISITION ACCOUNT, IN ORDER TO CARRY OUT FUTURE CDBG ACQUISITIONS, 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. 183-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**SECOND READING OF ORDINANCES AND RESOLUTIONS**

None.

**THIRD 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.**

**Third Reading – October 12, 2009.**

It was moved by Mr. Suboticki, seconded by Mr. Dippel, that **ORDINANCE NO. 141-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**APPOINTMENTS**

None.

**MISCELLANEOUS AND UNFINISHED BUSINESS**

President Maurer said he would like to have a poll of the Body this evening to show Council support for the School Levy Renewal in order for the Levy Committee to use this endorsement in advertisements. President Maurer called for a motion from the floor. It was moved by Mr. Avant, seconded by Mr. Judge, to propose that the Council of the City of Barberton fully endorse Issue #48, the School Operating Renewal Levy, on November 3<sup>rd</sup>. President Maurer called for the vote on this unofficial action of Council. All Members voted “yea.” Motion carried. President Maurer said there will be a resolution to this effect in two weeks.

Mr. Anderson said to visit the West Side Fire Station. He said Habitat for Humanity has their house on it and it is now sided and they are finishing the interior work. He said Council gave the whole lot to Habitat, so they have centered that house and it has an attached garage now instead of a detached one. He said the house looks great.

President Maurer said he received a request from Mrs. Kline, our Health Commissioner, to have a meeting of Council and the Board of Health to get everyone’s input. He asked Mr. Soyars to arrange this meeting.

President Maurer said November 30<sup>th</sup> will be the fifth Monday of the month, so no meeting is scheduled. He said Mr. Judge and others requested that we have an informational meeting with the Administration regarding next year’s budget. He said this meeting will be held on the 30<sup>th</sup> at 6:00 p.m. in Council Chambers.

## **COMMUNICATION FROM THE MAYOR**

Mayor Genet said to add to Mr. Anderson's comments regarding the Habitat for Humanity house, thanks to Council that house is sitting in the center of the lot where the fire station was. He said initially they were going to break it into two lots, but he appreciates the input by Council on that issue.

Mayor Genet said he agrees with Mr. Judge regarding the boundary adjustment. He said unfortunately, we had to give something up to get those adjustments. He said as we look back on this project twenty years from now, or even before that, we are going to know that it was the right thing to do. He said now there is going to be a West Side Campus in that area. He said had Norton not been able or willing to consider this boundary adjustment, the schools were in a quandary as to finding another site or building the school in the City of Norton and all the income taxes would have gone to Norton. He said this is a win-win and it shows cooperation between the two communities. He said the Brentwood Estate Allotment is on a well system which is a very pathetic water system. He said they can not wait to get good Barberton water up there.

Mayor Genet said going back to some of the comments made at the Finance Committee Meeting today, we have a serious issue facing us ... the 2010 Budget. He said not one decision we make will be the end-all/be-all to our financial woes. He said they are going to be small pieces that we are going to assemble in order to get through this difficult time. He said one of the items discussed at length, almost all summer, was the Health Department. He said Council is going to have to make a decision if we want to go down this path or not. He said we have an opportunity to save between \$350,000 or up to \$500,000 annually by creating this union with the Summit County Health Department. He said doing nothing is not an option. He said we need to move forward. He said if Council does not support that initiative, then he would like some feedback as to where else we go. He said the employees have looked at the situation -- and it is not a pleasant situation for them -- but they know at the end of the day that is the best route for them for stable employment. He said if Council calls for the ordinance to send notification to Barberton's Board of Health to terminate the contract, and to have all three readings, it would be six weeks from now. He said then it is a ninety-day notification which gets us into the first quarter of next year. He said the full savings will not be felt in 2010. He said everyone should have received the opinion from Roetzel & Andress, through our Law Director. He said if any one of you has a question about it, call or sit down and talk to our Law Director. He said we need to talk about how we can position the City to be financially viable, not just for one year, but for four or five years down the road. He said that is one of the things we are looking at and will continue to look at. He said the Health Department is not the only place we are looking. He said that issue has been before Council and we need to make a decision on what we want to do with that. He said if anyone has any questions, call the Law Director or call him. He said if Council wants to meet with the Board of Health, we need to do that. He said doing nothing is not an option.

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

Adjourned: 8:04 P.M.

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Frederick S. Maurer  
President of Council

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Susan Matuch  
Clerk of Council