

Council met in **REGULAR SESSION** on Monday, October 26, 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. Anderson 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, October 12, 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. 184-2009

ORDINANCE NO. 184-2009. PRESENTED BY: MR. JUDGE. TITLE: ENTER INTO CONTRACT – KNL EXCAVATING – COVENTRY ROAD-MAY STREET – IMPROVEMENTS. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH KNL EXCAVATING, IN THE AMOUNT OF \$13,000, FOR THE COST OF THE COVENTRY ROAD - MAY STREET STORM SEWER IMPROVEMENTS, 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. 184-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 185-2009

ORDINANCE NO. 185-2009. 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 CEMENTECH, THE LOWEST AND/OR BEST BIDDER, IN THE AMOUNT OF \$215,994.95, FOR 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. 185-2009 BE ADOPTED.** Mr. Avant asked if this ordinance included any tree removal for some of the sidewalk replacements where there is a problem with the upheaval of the sidewalk. Mr. Judge said he believes it does include the removal of trees and that is why there is such a difference in the bids. He said a lot of these companies will sub-contract that out. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

ORDINANCE NO. 186-2009

ORDINANCE NO. 186-2009. PRESENTED BY: MR. ANDERSON. TITLE: DONATION OF CANNON. AN ORDINANCE AUTHORIZING THE MAYOR TO DONATE THE CANNON OWNED BY THE CITY AND LOCATED AT EDGEWOOD PARK, 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 the ordinance donating the other cannon was passed without a problem. He said this particular cannon was located at Edgewood Park and they wanted to find out if there was any special reason why that cannon was placed there. He said the committee found none. He said the cannon will be repaired and painted and placed at the Memorial. 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. 186-2009 BE ADOPTED.** Mr. Avant said he wanted to put on the record why he objected to this in the beginning. He said he wanted to make sure this was not placed at the West Side Park because of some West Side servicemen who served in the different wars. He said VFW 1066 said it was a “surplus” cannon that was presented to many cities, and we received one of them. President Maurer said he also had his reservations just because he is a creature of habit and it seemed like the cannons were just a part of Barberton. He said both of the cannons were French guns from the First World War. He said he feels it is a good thing for the City to help out the noble gesture for the memorial park in Clinton. Mr. Judge said it is important to note that these cannons will be transported and refurbished by the Ohio Veterans Memorial Park and that Barberton will still retain ownership. He said in the event the park should close, we would continue to own those cannons. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

ORDINANCE NO. 187-2009

ORDINANCE NO. 187-2009. PRESENTED BY: MR. DIPPEL. TITLE: ENTER INTO CONTRACT – UTILITIES – WWTP IMPROVEMENT PROJECT – REPEAL OF ORD. NO. 159-2009. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH CT CONSULTANTS, IN THE AMOUNT OF \$732,000, FOR THE WWTP IMPROVEMENT PROJECT; AND REPEAL OF ORD. NO. 159-2009 REGARDING A CHANGE ORDER FOR THE WWTP UPGRADE, 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. 187-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

RESOLUTION NO. 188-2009

RESOLUTION NO. 188-2009. PRESENTED BY: ALL OF COUNCIL. TITLE: SUPPORT FOR MAYOR – SUMMIT COUNTY GENERAL HEALTH DISTRICT. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON SUPPORTING THE MAYOR’S EFFORTS TO NEGOTIATE TWO CONTRACTS WITH THE SUMMIT COUNTY GENERAL HEALTH DISTRICT.

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ORDINANCE NO. 189-2009

ORDINANCE NO. 189-2009. PRESENTED BY: MR. SUBOTICKI. TITLE: ENTER INTO CONTRACT – BUILDING DEPARTMENT – DEMOLITION OF RESIDENTIAL STRUCTURES. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH BUTCHER & SON EXCAVATING, INC., THE LOWEST AND/OR BEST BIDDER, FOR THE TOTAL AMOUNT OF \$24,720, FOR THE DEMOLITION OF NUMEROUS RESIDENTIAL STRUCTURES THROUGHOUT THE CITY, 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. 189-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

RESOLUTION NO. 190-2009

RESOLUTION NO. 190-2009. PRESENTED BY: MR. AVANT. TITLE: PUBLIC RECORDS POLICY. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON ADOPTING AN UPDATED “PUBLIC RECORDS POLICY” IN ORDER TO BE IN COMPLIANCE WITH HOUSE BILL 9 AND THE PUBLIC RECORDS ACT; AND REPEALING RES. NO. 201-2007, “PUBLIC RECORDS POLICY – HB9,” 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. 190-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

RESOLUTION NO. 191-2009

RESOLUTION NO. 191-2009. PRESENTED BY: MR. AVANT. TITLE: POLITICAL ACTIVITY POLICY. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON ADOPTING A “POLITICAL ACTIVITY POLICY” FOR EMPLOYEES IN THE CLASSIFIED SERVICE TO PROVIDE GUIDELINES CONCERNING POLITICAL ACTIVITIES, 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. 191-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

RESOLUTION NO. 192-2009

RESOLUTION NO. 192-2009. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. AVANT. TITLE: SCHOOL LEVY RENEWAL ENDORSEMENT. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON ENDORSING THE BARBERTON CITY SCHOOLS OPERATING LEVY RENEWAL, KNOWN AS ISSUE 48, ON THE NOVEMBER 3, 2009, GENERAL ELECTION BALLOT, 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. President Maurer said he really appreciates the school system adopting the slogan, “Working to be the school system of choice.” He said they have done some outstanding things here in the last couple of years, and this is no time to jerk the rug from under them by failing to renew an existing levy. 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 **RESOLUTION NO. 192-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

Before reading Ordinance No. 193-2009, the Clerk read the following Fiscal Officer’s Certificate from Mr. Raymond E. Flickinger, Director of Finance, dated October 26, 2009:

To the Council of the City of Barberton, Ohio:

As fiscal officer of the City of Barberton, Ohio, I certify in connection with your proposed issue of \$200,000 notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying the City’s portion of the cost of improving Fifth Street, S.E., between certain termini by widening, curbing, constructing sidewalks and driveway approaches, street resurfacing, storm sewers, adding street lighting and street trees, together with all necessary appurtenances thereto:

1. The estimated life or usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20, Ohio Revised Code, is 20 years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds, thus the maximum maturity of the Bonds is 17 years.
3. The maximum maturity of the Notes is December 20, 2021, which is 20 years from December 20, 2001, the date of the original note issued for this purpose.

ORDINANCE NO. 193-2009

ORDINANCE NO. 193-2009. PRESENTED BY: MR. AVANT. TITLE: NOTE ORDINANCE – FIFTH STREET IMPROVEMENT PROJECT. AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$200,000 OF AGGREGATE PRINCIPAL AMOUNT OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING THE CITY’S PORTION OF THE COST OF IMPROVING FIFTH STREET, S.E. BETWEEN CERTAIN TERMINI BY WIDENING, CURBING, CONSTRUCTING SIDEWALKS AND DRIVEWAY APPROACHES, STREET RESURFACING, STORM SEWERS, ADDING STREET LIGHTING AND STREET TREES, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, 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. 193-2009 BE ADOPTED.** All Members voted “yea.” Motion carried. Before reading Ordinance No. 194-2009, the Clerk read the following Fiscal Officer’s Certificate from Mr. Raymond E. Flickinger, Director of Finance, dated October 26, 2009:

To the Council of the City of Barberton, Ohio:

As fiscal officer of the City of Barberton, Ohio, I certify in connection with your proposed issue of \$350,000 notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying the City’s cost of improving Robinson Avenue, between certain termini, by reconstructing approximately 5,200 feet of street, sidewalk/pedestrian ways, curbs, waterline and inlets, together with all necessary appurtenances thereto:

1. The estimated life or usefulness of the improvement is at least five years.
2. The estimated maximum maturity of the Bonds, calculated in accordance with Section 133.20, Ohio Revised Code, is 20 years. If notes in anticipation of the Bonds are outstanding later than the last day of December of the fifth year following the year of issuance of the original issue of notes, the period in excess of those five years shall be deducted from that maximum maturity of the Bonds, thus the maximum maturity of the Bonds is 18 years.
3. The maximum maturity of the Notes is December 5, 2022, which is 20 years from December 5, 2002, the date of the original note issued for this purpose.

ORDINANCE NO. 194-2009

ORDINANCE NO. 194-2009. PRESENTED BY: MR. AVANT. TITLE: NOTE ORDINANCE – ROBINSON AVENUE IMPROVEMENT PROJECT. AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$350,000 OF AGGREGATE PRINCIPAL AMOUNT OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING THE CITY’S PORTION OF THE COST OF IMPROVING ROBINSON AVENUE BETWEEN CERTAIN TERMINI, BY RECONSTRUCTING APPROXIMATELY 5,200 FEET OF STREET, SIDEWALK/PEDESTRIAN WAYS, CURBS, WATERLINE AND INLETS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, 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. 194-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 195-2009

ORDINANCE NO. 195-2009. PRESENTED BY: MR. AVANT. TITLE: APPROVAL OF REVISED 2009 HEALTH DISTRICT BUDGET – REDUCTION OF HEALTH DISTRICT FUND. AN ORDINANCE APPROVING THE REVISED 2009 HEALTH DISTRICT BUDGET AND HEREBY AUTHORIZING THE REDUCTION OF THE HEALTH DISTRICT FUND APPROPRIATION FROM \$1,145,970 TO \$946,447, DUE TO AN UNFORESEEN REDUCTION IN REVENUE, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, 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. Avant, seconded by Mr. Soyars, that **ORDINANCE NO. 195-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 196-2009

ORDINANCE NO. 196-2009. PRESENTED BY: MR. AVANT. TITLE: TRANSFER OF FUNDS – BUILDING DEPARTMENT. AN ORDINANCE TRANSFERRING \$3,000 FROM THE BUILDING DEPARTMENT PERSONAL SERVICES BUDGET TO THE BUILDING DEPARTMENT OPERATING BUDGET, TO PURCHASE COMPUTERS AND A PRINTER TO FACILITATE THE ZONE PRO SOFTWARE SYSTEM FOR THE RENTAL REGISTRATION PROGRAM AND OTHER BUILDING, STORM WATER, PLANNING, AND ENGINEERING FUNCTIONS, 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. 196-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 197-2009

ORDINANCE NO. 197-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – UTILITIES DEPARTMENT – WWTP IMPROVEMENT PROJECT. AN ORDINANCE APPROPRIATING \$82,000 FROM THE UNAPPROPRIATED ITEM OF THE SEWER IMPROVEMENT RESERVE FUND TO THE SEWER IMPROVEMENT RESERVE FUND OPERATING BUDGET, IN ORDER TO PAY CT CONSULTANTS FOR PROFESSIONAL SERVICES FOR THE WWTP IMPROVEMENT PROJECT, 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. 197-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 198-2009

ORDINANCE NO. 198-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – CDBG FUND. AN ORDINANCE APPROPRIATING \$200,292 FROM THE UNAPPROPRIATED ITEM OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND TO THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND CAPITAL BUDGET, DUE TO AN AWARD FROM THE CDBG RECOVERY FUNDS, IN ORDER TO CONSTRUCT SIDEWALKS IN THE COLUMBIA HEIGHTS AREA, 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. 198-2009 BE ADOPTED.** Mr. Anderson asked if this has already been awarded and if work would be started this year? Mr. Sawyer, City Engineer, said this has not yet been awarded; it is pending approval of tonight’s legislation and the Board of Control. He said they are planning for a pre-construction meeting and the project would begin shortly after that. Mr. Anderson said he wanted to thank Mr. Sawyer because that work is being done in the Columbia Heights Area, the Sixth Ward, for no cost to the residents. President Maurer called for the vote on adoption. 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

President Maurer said he attended Mr. Megyes’s Fourth Ward Meeting. He said it was very well attended by the residents, Council Members, and the Administration.

Mr. Megyes said there were fifty-nine people at his meeting last Thursday. He said he would like to thank the following speakers: Tom Harnden and Joe Stefan for the Schools; Rob Engler and Ken Cox discussing the Rental Registration and Inspection Program; and Mayor Genet and Paulette Kline discussing the Health Department issue. He said Council Members attending were Mr. Maurer, Mr. Judge, and Mr. Soyars. He said there were a lot of good questions asked and they were answered the right way.

COMMUNICATION FROM THE MAYOR

Mayor Genet said he would like to thank Mr. Megyes for the Fourth Ward Meeting last week. He said there were great discussions regarding all the subjects brought up that night. He said he wants to commend Craig for getting all those people to come.

Mayor Genet said the City of Barberton is going to set up a VITA Program, which is the Volunteer Income Tax Assistance Program. He said they are looking for volunteers.

Mayor Genet said the Boundary Adjustment legislation that Norton and Barberton City Councils passed is now up to County Council for confirmation. He said it should be voted on next Monday. He said there was a little bit of resistance. He said our particular representative indicated that he thought there was a legal question regarding the issue. Mayor Genet said he does not think there will be a problem and hopefully Summit County will move forward so the schools can move forward with their plan to build a 700-student campus on the West Side.

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

Adjourned: 8:04 P.M.

Frederick S. Maurer
President of Council

Susan Matuch
Clerk of Council