

Council met in **REGULAR SESSION** on Monday, November 9, 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. Maurer gave the Invocation. President Maurer requested a Moment of Silence for former Summit County Sheriff and U.S. Marshal David Troutman.

It was moved by Mr. Judge, seconded by Mr. Dippel, to approve the Minutes of the Regular Legislative Session held on Monday, October 26, 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 Public Hearing held on Monday, November 2, 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 Session held on Monday, November 2, 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**

Mr. Joseph Harrison, 36-37<sup>th</sup> Street, S.W., Barberton, said he first wanted to congratulate Mr. Soyars on his win of the Council At Large seat and Mr. Judge for his re-election as Council At Large. He said he is here to talk about Resolution No. 188-2009. He said he is again asking City Council to vote against that Resolution and to put it on the ballot to allow the people to decide this issue. He said it would take about forty-five minutes to go over the information he handed out to everyone, so he would appreciate it if everyone would take it home to read in order to get an understanding of the questions that still need to be answered. He said the Summit County Health District has not presented a plan of the services to the Board of Health so the Board could make a comparison and determination of what is best for the people of Barberton. He said the question that has not been answered is: Will contracting with the Summit County Health District provide the level of services that will meet the public health needs of the people of Barberton or will the people of Barberton experience a tremendous loss of services? He said the Ohio Revised Code and Section 6.04 of our City Charter place the determination of public health needs and services of the community in the sole jurisdiction of the Board of Health. He said the broad questions still needing answers are: Are the services to be provided by Summit County Health District the same as presently being provided by the Barberton Health District? What are the comparisons in the quantity and quality of service of the two health districts? What subjective

benefits of the two health districts need to be considered and weighed? He said his information shows some of the extra programs the Barberton Board of Health has for its people, examples showing the ratio of professionals per population, per dwelling unit, etc. He said he shows the food service program, how nuisance complaints are handled, the pre-natal program, etc. He said a detailed comparison needs to be done of these services and how the two health districts would provide those services. He said in 2008 the Barberton Health District provided \$64.80 worth of public health services per capita; however, the people of Barberton got a tremendous bargain by paying only \$20.33. He said at that time, the Health Department was costing the City 33% of its budget -- 2/3 of its budget was from grants and other sources. He said he believes today that is the same, that there is about a 50% source of funding for the health department. He said to compare that to the police, parks, and other departments. He said another subjective item that needs to be weighed is the Board of Health. He said the Board of Health is made up of seven citizens of the City of Barberton who make the decisions for us. He said they live here, they know what our needs are, and they try to work within the budget to provide those services to the people. He said to compare that with having only one representative on the seventeen-member County Board of Health. He said to give him a call with any questions.

**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. 200-2009**

**ORDINANCE NO. 200-2009. PRESENTED BY: MR. SILVA. TITLE: ENTER INTO AGREEMENT – “AUTOMATIC AID AGREEMENT” – BARBERTON/NORTON FIRE DEPARTMENTS. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN “AUTOMATIC AID AGREEMENT” BETWEEN THE CITY OF BARBERTON AND THE CITY OF NORTON FIRE DEPARTMENTS, TO PROVIDE MUTUAL ASSISTANCE IN FIREFIGHTING EFFORTS WHEN REQUESTED.** 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. 200-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

#### **ORDINANCE NO. 201-2009**

**ORDINANCE NO. 201-2009. PRESENTED BY: MR. SILVA. TITLE: AMEND BARBERTON CODIFIED ORDINANCES – “TEXT MESSAGING WHILE DRIVING PROHIBITED.” AN ORDINANCE AMENDING PART THREE OF THE BARBERTON CODIFIED ORDINANCES, “TRAFFIC CODE,” BY INCLUDING A NEW SECTION, “TEXT MESSAGING WHILE DRIVING PROHIBITED,” THEREBY ESTABLISHING RESTRICTIONS FOR TEXT MESSAGING WHILE DRIVING IN THE CITY OF BARBERTON, 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. 201-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 202-2009**

**ORDINANCE NO. 202-2009. PRESENTED BY: MR. DIPPEL. TITLE: ENTER INTO CONTRACT – WASTE MANAGEMENT. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH WASTE MANAGEMENT, EXTENDING THE CURRENT CONTRACT FOR THE FIRST-YEAR OPTION, FOR RESIDENTIAL CURBSIDE GARBAGE/RECYCLE COLLECTION IN THE CITY OF BARBERTON, 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. 202-2009 BE ADOPTED.** Mr. Silva said he wants to thank Mr. Palmer because Waste Management wanted a 10% increase and Mr. Palmer got them down to a 5% increase. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

**ORDINANCE NO. 203-2009**

**ORDINANCE NO. 203-2009. PRESENTED BY: MR. DIPPEL. TITLE: “REFUSE COLLECTION AND DISPOSAL PROGRAM” – AMENDING ORD. NO. 31-2009. AN ORDINANCE AMENDING ORD. NO. 31-2009, “REFUSE COLLECTION AND DISPOSAL PROGRAM,” TO REFLECT AN INCREASE IN THE MONTHLY SERVICE FEE (SECTION 1060.08), DUE TO THE CONTRACT PRICE ADJUSTMENT FOR THE FIRST YEAR OPTION OF THE CURRENT CONTRACT, 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. 203-2009 BE ADOPTED.** Mr. Avant asked if it was necessary to increase the Relief Program by the same rate because these are the people we are trying to help. Mr. Palmer, Director of Public Service, said it was necessary. He said they tried to hold that amount to a bare minimum the last few years, but it was getting to the point where they could not continue to do that. He said there were a couple of raises that were not passed on to them, so they had to go across the board this time. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

**ORDINANCE NO. 204-2009**

**ORDINANCE NO. 204-2009. PRESENTED BY: MR. MEGYES. TITLE: ENTER INTO CONTRACT – BUILDING DEPARTMENT – ENVIRONMENTAL ABATEMENT. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH CARDINAL ENVIRONMENTAL, INC., THE LOWEST AND/OR BEST BIDDER, IN THE AMOUNT OF \$49,700, FOR THE ENVIRONMENTAL ABATEMENT OF VARIOUS CITY-OWNED RESIDENTIAL STRUCTURES LOCATED THROUGHOUT THE CITY, USING CDBG AND/OR NSP FUNDS, 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. 204-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 205-2009**

**ORDINANCE NO. 205-2009. PRESENTED BY: MR. ANDERSON. TITLE: PURCHASE OF PROPERTY – 1306 AUBURN AVENUE. AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT TO PURCHASE THE PROPERTY AT 1306 AUBURN AVENUE FOR DEMOLITION, IN AN AMOUNT NOT TO EXCEED \$19,500, 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. 205-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 206-2009**

**ORDINANCE NO. 206-2009. PRESENTED BY: MR. AVANT. TITLE: TRANSFER OF FUNDS – FIRE DEPARTMENT. AN ORDINANCE TRANSFERRING \$20,000 FROM THE FIRE DEPARTMENT PERSONAL SERVICES BUDGET TO THE FIRE DEPARTMENT OPERATING BUDGET, TO COVER COSTS FOR THE REMAINDER OF THE YEAR, AND DECLARING AN EMERGENCY.** It was moved by Mr. Avant, 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. Avant, seconded by Mr. Silva, that **ORDINANCE NO. 206-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 207-2009**

**ORDINANCE NO. 207-2009. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – DRUG PREVENTION EDUCATION FUND. AN ORDINANCE APPROPRIATING \$5,000 FROM THE UNAPPROPRIATED ITEM OF THE POLICE DEPARTMENT DRUG PREVENTION EDUCATION FUND TO THE POLICE DEPARTMENT DRUG PREVENTION OPERATING BUDGET, IN ORDER TO PURCHASE ITEMS NEEDED FOR AWARENESS PROGRAMS IN THE SCHOOLS, AND DECLARING AN EMERGENCY.** It was moved by Mr. Avant, 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. Avant, seconded by Mr. Silva, that **ORDINANCE NO. 207-2009 BE ADOPTED.** All Members voted “yea.” Motion carried.

**SECOND READING OF ORDINANCES AND RESOLUTIONS**

**RESOLUTION NO. 188-2009**

**RESOLUTION NO. 188-2009. PRESENTED BY: MR. SOYARS. 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. *First Reading – October 26, 2009. Second Reading – November 9, 2009.*** After the Second Reading of Resolution No. 188-2009, Mr. Avant addressed Council. He said the need to vote on this Resolution in order to save two

more weeks of waiting was discussed thoroughly in the Finance Committee Meeting. He said even the Labor Union President feels it is necessary to find out what is going on and what could be decided. He said this is just a resolution; it is not law. He said he does not know why this resolution would have to go on the ballot. Mr. Avant said we will not know anything unless we give the Mayor permission to get something in writing, a commitment from the County. He said he apologizes to Mr. Soyars for not talking to him one-on-one prior to talking to the other council members, but he did not feel the Health Committee was going to bring this to the floor. He said he would like to move to suspend the rule as required by Section 5.01 on Res. No. 188-2009 in order to vote on it. Mr. Anderson said he would second the motion because he also believes that this does nothing more than move this forward. He said it is not saying we are going with Summit County or staying with Barberton; it only supports the Mayor's efforts in getting some movement on this so we have what Mr. Harrison wants -- some comparisons between the two departments so that we can actually get a budget together. He said he does not feel that waiting another week will do anything. 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. Mr. Soyars said he would be voting "no" because he feels it should be given a Third Reading. President Maurer called for the vote on suspension. Mr. Judge, Mr. Suboticki, Mr. Avant, Mr. Anderson, Mr. Silva, Mr. Dippel, and Mr. Megyes voted "yea." Mr. Soyars voted "nay." Motion carried. It was moved by Mr. Avant, seconded by Mr. Anderson, that **RESOLUTION NO. 188-2009 BE ADOPTED.** Mr. Silva said he, too, agrees with Mr. Anderson and Mr. Avant. He said he does not see the need to prolong this because this will get us the answers Mr. Harrison is referring to. He said again, we are not entering into contract with anybody; we are just going to be getting some questions answered for ourselves, the City, and more so, for the employees. He said the Union wants to see this too. Mr. Judge said we have had a lot of questions from residents. He said this does not disband the Health District or the Health Board. He said any contract negotiated comes back for approval from Council. He said this is just allowing the Mayor to negotiate the contracts with the County. President Maurer called for the vote on adoption. Mr. Megyes, Mr. Dippel, Mr. Silva, Mr. Anderson, Mr. Avant, Mr. Suboticki, and Mr. Judge voted "yea." Mr. Soyars voted "nay." Motion carried.

### **THIRD READING OF ORDINANCES AND RESOLUTIONS**

None.

### **APPOINTMENTS**

None.

### **MISCELLANEOUS AND UNFINISHED BUSINESS**

The Clerk said she received a Liquor License Transfer Request:

From: Southgate Bowling Center, Inc., 193 Wooster Road N., & Basement, Barberton, OH.

To: Magic City Lanes, LLC, 193 Wooster Road N., & Basement, Barberton, OH.

She said there were no objections.

The Clerk said she received a New Liquor License Request:

From: Pit Stop Express, LLC, DBA Pit Stop Express, 425 W. Hopocan Ave., Barberton, OH.

The Clerk said a Hearing has been scheduled for this particular property. Mr. Bauschlinger, Building Commissioner, asked if the City would be notified of the date of the hearing. Chief Kallai said the Clerk will send the paperwork to the Liquor Control Division and they will notify us of the date.

Mr. Silva said he would like to remove a Safety Committee letter dated 1/12/09 from the Matters Referred List.

President Maurer said November 11<sup>th</sup> is Veterans Day. He said a service will take place at the Military Honor Roll at 11 a.m. He said it is a national holiday, so the Municipal Building will be closed. He said prior to the service, a bench in memory of Lori Winebrenner will be unveiled. He said she was an outstanding person and she will be memorialized there.

President Maurer wished Mr. Palmer a very happy birthday!

Mr. Megyes said a meeting sponsored by John Baker and the landlords will take place on November 18, Lake Anna Hall, at 7:00 p.m. He said it is basically an information session about the legislation that was passed. He said Mr. Bauschlinger will be there in a suit of armor! He said he would also be attending.

### **COMMUNICATION FROM THE MAYOR**

Mayor Genet said the significance of placing the bench for Lori Winebrenner at the Military Honor Roll is because she was really close to a lot of those veterans' hearts. He said those veterans got to know her because she worked diligently on the renovation of the Military Honor Roll. He said they made a large contribution to make that happen, in addition to the other money donated on her behalf.

Mayor Genet said this Thursday is the Foundation Recognition Dinner. He said to see Mr. Bako at the Foundation if anyone would like to attend.

Mayor Genet said he would like to congratulate Mr. Judge and Mr. Soyars on their successful campaigns, to congratulate the Schools with the passage of Issue 48, and the Rental Registration Program, Issue 15, passed. He said they will be ready to implement that Program the first of the year. He said a lot of good things are happening in the City.

Mayor Genet said he has been in charge of putting together speaking engagements for Stark State. He said they will be speaking at the Rotary, at the Morning and Noon Kiwanis, at the Chamber, etc. He said the BCDC is doing a strategic plan on November 20<sup>th</sup> so they will be talking to them about workforce development also.

Mayor Genet said even though there is a downturn in the economy and our income tax collection is down, he feels it will take some time to rebound ... but he believes it will happen. He said we are going to have to be patient. He said in his estimation, it will take until the last quarter of 2011 before we start seeing some growth. He said we do not expect to see much growth next

year and that is one of the things we have talked about all year. He said it is just like everywhere else -- it happened nationally, then in the state, in the county, and now it is affecting us. He said he does not think there is any community in the state, or in the country, that is not affected by this.

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

Adjourned: 8:12 P.M.

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Frederick S. Maurer  
President of Council

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Susan Matuch  
Clerk of Council