

Council met in **REGULAR SESSION** on Monday, February 8, 2010, at 7:30 P.M. in the Council Chambers with President Maurer presiding. Members present: Anderson, Avant, Judge, Lysenko, Megyes, Soyars, Suboticki, and Wagner. The Pledge of Allegiance to the Flag was recited and Mr. Soyars gave the Invocation. There was a Moment of Silence for Mrs. Ruth Lukens, who passed away last week and who was the wife of our former Service Director, Ralph Lukens.

It was moved by Mr. Judge, seconded by Mr. Soyars, to approve the Minutes of the Public Hearing held on Monday, January 25, 2010, as presented. All Members voted “yea.” Motion carried.

It was moved by Mr. Judge, seconded by Mr. Soyars, to approve the Minutes of the Regular Legislative Meeting held on Monday, January 25, 2010, as presented. All Members voted “yea.” Motion carried.

It was moved by Mr. Avant, seconded by Mr. Anderson, to accept the Finance Department Report for January 2010, 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. 14-2010

ORDINANCE NO. 14-2010. PRESENTED BY: MR. ANDERSON. TITLE: AUTHORIZING E-BAY AUCTION – ACTIVE ADULT CENTER. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PARKS AND RECREATION TO SELL, BY AUCTION ON E-BAY, TWO POOL TABLES AND THE BARIATRIC CHAIRS NO LONGER NEEDED IN THE ACTIVE ADULT CENTER, AND DECLARING AN EMERGENCY. It was moved by Mr. Anderson, 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. Anderson, seconded by Mr. Judge, that **ORDINANCE NO. 14-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 15-2010

ORDINANCE NO. 15-2010. PRESENTED BY: MR. LYSENKO. TITLE: PURCHASE OF PROPERTY – 397 5TH STREET, NW. AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT TO PURCHASE THE PROPERTY AT 397 5TH STREET, NW, USING STATE NSP FUNDS, FOR \$16,500, PLUS ALL CLOSING COSTS, AND DECLARING AN EMERGENCY. It was moved by Mr. Lysenko, 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. Lysenko, seconded by Mr. Soyars, that **ORDINANCE NO. 15-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 16-2010

ORDINANCE NO. 16-2010. PRESENTED BY: MR. LYSENKO. TITLE: ENTER INTO CONTRACT – BCDC – RUSSELL AVENUE LANDFILL CLEANUP. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH THE BARBERTON COMMUNITY DEVELOPMENT CORPORATION (BCDC), IN THE AMOUNT OF \$12,324.10, TO FACILITATE AND OVERSEE THE CLEANUP OF RUSSELL AVENUE LANDFILL, AND DECLARING AN EMERGENCY. It was moved by Mr. Lysenko, 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. Lysenko, seconded by Mr. Soyars, that **ORDINANCE NO. 16-2010 BE ADOPTED.** President Maurer said Ms. Sheridan stated before that Russell Avenue was predominantly a residential landfill and any contamination was probably more incidental than by design. He said this should be a pretty good property for us to develop commercially. President Maurer said an entrance was allowed off of Snyder Avenue so the trucks going to the industrial complex would not necessarily have to go through the middle of a residential neighborhood. He said his hat is off to the Planning Department for taking that into consideration. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

ORDINANCE NO. 17-2010

ORDINANCE NO. 17-2010. PRESENTED BY: MR. AVANT. TITLE: LEASE AGREEMENT – CANFORA DEVELOPMENT CORPORATION. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A FIVE (5) YEAR LEASE AGREEMENT WITH CANFORA DEVELOPMENT CORPORATION FOR THE LEASE OF APPROXIMATELY 3,835 SQUARE FEET OF OFFICE SPACE FOR THE FINANCE DEPARTMENT, 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. 17-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 18-2010

ORDINANCE NO. 18-2010. PRESENTED BY: MR. AVANT. TITLE: ENTER INTO CONTRACT – MUNICIPAL COURT – CAPITAL RECOVERY SYSTEMS. AN ORDINANCE AUTHORIZING THE CLERK OF COURTS TO ENTER INTO CONTRACT WITH CAPITAL RECOVERY SYSTEMS OF COLUMBUS, OHIO, TO ACT AS A COLLECTION AGENCY FOR BARBERTON MUNICIPAL COURT FOR COLLECTION OF PAST-DUE COURT FINES AND COSTS, 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. 18-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 19-2010

ORDINANCE NO. 19-2010. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – 911 PHONE SYSTEM FUND – DATA STORAGE PROJECT. AN ORDINANCE APPROPRIATING \$5,000 FROM THE UNAPPROPRIATED ITEM OF THE 911 PHONE SYSTEM FUND TO THE 911 PHONE SYSTEM FUND CAPITAL BUDGET, TO ASSIST WITH PAYMENT OF THE DATA STORAGE PROJECT FOR THE CITY, 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. 19-2010 BE ADOPTED.** President Maurer asked Chief Kallai what was going to be done with the money coming from State funds. Chief Kallai said the money is coming from the emergency 911 phones. He said this goes into an account to use for 911 technology. He said part of that data storage is going to store some of the data from the 911 project, so the money is going to be transferred over for that project. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

ORDINANCE NO. 20-2010

ORDINANCE NO. 20-2010. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – POLICE DEPARTMENT – JAG GRANT. AN ORDINANCE APPROPRIATING \$5,734.90 FROM THE UNAPPROPRIATED ITEM OF THE GENERAL FUND TO THE POLICE DEPARTMENT CAPITAL BUDGET, DUE TO THE 2009 RECOVERY ACT – JUSTICE ASSISTANCE GRANT (JAG), TO COMPLETE CERTAIN PROJECTS IN THE POLICE DEPARTMENT, 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. 20-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

ORDINANCE NO. 21-2010

ORDINANCE NO. 21-2010. PRESENTED BY: MR. AVANT. TITLE: AUTHORIZE PAYMENT – URS – SAFE ROUTES TO SCHOOL PROGRAM. AN ORDINANCE AUTHORIZING THE DIRECTOR OF FINANCE TO PAY AN INVOICE TO URS, IN THE AMOUNT OF \$15,000, TO COMPLETE PROFESSIONAL SERVICES RELATED TO THE SAFE ROUTES TO SCHOOL (SRTS) IMPLEMENTATION PLAN, 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. 21-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

SECOND READING OF ORDINANCES AND RESOLUTIONS

None.

THIRD READING OF ORDINANCES AND RESOLUTIONS

None.

APPOINTMENTS

CHARTER REVIEW COMMISSION

John Angerer Craig Gillenwater Tom Harnden Shannon McNulty
Ken Masich Amy Nitz Brian Toth

It was moved by Mr. Avant, seconded by Mr. Anderson, that the slate of candidates be appointed to the Charter Review Commission. All Members voted “yea.” Motion carried.

MISCELLANEOUS AND UNFINISHED BUSINESS

At the request of President Maurer, the Clerk read the following proposed amendments to the Rules of Council:

Rule 104. Add: If the President desires to combine a Committee of the Whole Meeting and Regular Legislative Meeting, the Committee of the Whole Meeting shall follow the Regular Legislative Meeting, and Council shall not vote on the requested legislation until the next scheduled Regular Legislative Session.

Rule 202. Add: No debating between council members and residents shall take place during the “Citizens Addressing Council” portion of Committee of the Whole Meetings or Regular Legislative Meetings unless authorized by the President.

It was moved by Mr. Lysenko, seconded by Mr. Soyars, to amend the Rules of Council by adding the proposed changes to Council Rule #104 and Council Rule #202.

Mr. Avant said he would like to know the reasoning for these changes. President Maurer said both proposed changes were made at his request. He said he has always had a problem having a

committee of the whole meeting to call for legislation and then at the end of that meeting start the legislative session and vote on that particular legislation the same night. He said that basically shuts out access for anyone having a problem with the legislation or wanting clarification. He said there has to be access for the citizens or other members of council if there are questions that need to be answered. He said this addition to Council Rule #104 would resolve that problem.

President Maurer said the second issue is about debating with Council. He said we have a forum where citizens can address council on any subject during committee of the whole meetings or a specific piece of legislation during legislative sessions. He said it is not intended to be a debating society; it is intended for people to speak their peace, pro or con, on any piece of legislation. He said getting into a debate-type format with a member of the citizenry is counter-productive to the progression and order of the meeting. President Maurer said we have public hearings for that. He said they are free to voice any opinion they want, but it is not intended to be a debate at the rail. He said there have been some situations in the past where it becomes a virtual shouting match, and we are trying to avoid that.

Mr. Judge said his question with Rule 202 would depend on the President's definition of "debate." He said there have been many times when citizens would come up to the rail just to ask questions. He said in his opinion it is a healthy debate back and forth, with a lot of questions answered. Mr. Judge said his understanding is that the President of Council has the power at that time -- or any time -- to cut off that citizen and to move the meeting forward as the rules stand now. President Maurer said in actuality the Chair would have the right to close the discussion at any given time. He said the problem is that if there is a particularly sensitive subject, the citizen could argue that he got shot down because the chairman did not agree with his position. He said if we close the debate at the rail before it starts, then everyone is treated fairly and there will not be any charges of bias. Mr. Judge said sometimes when there are heated debates, or heated issues, a half an hour in a committee meeting is not enough time for debate with committee members, let alone with citizens. President Maurer said that is a good point. He said if that were the case, then the committee chairman could table the issue for further discussion in committee. He said these are his suggestions and Council can vote them up or down.

Mr. Avant said regarding #202, when a citizen addresses Council, we generally ask permission to speak anyway. He said it is redundant and kind of implying a little authoritarianism when you add "when authorized by the President of Council." He said he would like to remove those last five words. Mr. Lysenko said his understanding in having those words remain is that if a point of information or a simple question from a citizen is asked, then a council member could ask the president for permission to answer the question. President Maurer said this change grew out of his chairmanship of the Planning Committee. He said there were times when neighborhood issues or zoning issues would get pretty heated and the meetings would get out of hand. He said there was a similar situation on another board he is a member where it almost became a circus atmosphere. President Maurer said this is basically codifying things and trying to make things a little less biased. He said it makes it a little easier for the Chair to read a rule and to say he is going to enforce it. Mr. Lysenko said this is not really a change to the rule; it is more or less a clarification of the rule. President Maurer said he is not the Parliamentarian he would like to be

and he is not sure what Robert's Rules says about this, but anything not covered in our rules goes back to Robert's Rules anyway. He asked if there were any other questions or remarks.

President Maurer called for the vote on the amendment to Council Rule #104. Mr. Judge, Mr. Lysenko, Mr. Soyars, Mr. Wagner, Mr. Anderson, Mr. Megyes, and Mr. Suboticki voted "yea." Mr. Avant voted "nay." Motion carried, 7-1.

President Maurer called for the vote on the amendment to Council Rule #202. Mr. Megyes, Mr. Anderson, Mr. Soyars, Mr. Suboticki, Mr. Lysenko voted "yea." Mr. Wagner, Mr. Avant, and Mr. Judge voted "nay." Motion carried, 5-3.

President Maurer said under our Council Rules, these rules can be changed whenever we want. He said if anyone on the opposing side has a problem with either of these, he would be more than happy to entertain a refinement.

President Maurer said the Council Retreat is Saturday, February 13th, 8:00 a.m., at Thanos's. He said this will be a brainstorming session with the Mayor and his Administration. He said anyone wishing to come from your staff is welcome because it is not going to be a closed session. He said if anyone has questions about where we are going to take the City and how we are going to fund upcoming projects, etc., this would be a good time to clear the air. He said we want to make sure we are all on the same page.

COMMUNICATION FROM THE MAYOR

Mayor Genet said a Super Refund Saturday was planned for February 6th by the VITA group so people could just walk in from 9:00 a.m. to 3:00 p.m. to get their taxes done with no appointment; however, the 12" of snow was not planned. He said their goal is to do 200 tax returns during this tax season, and they have done over forty. He said if any constituents call, they are accepting walk-ins on Mondays and Wednesdays from 4:00 p.m. to 7:00 p.m.

Mayor Genet said everyone should have a memo regarding a meeting being held about the Health Department on February 18th at the Active Adult Center, at 7:00 p.m. He said he has invited the Board of Health, Gene Nixon from the Summit County Health Department, City Council, and any interested parties that want to attend. He said we can try to get more questions answered and hopefully move on. He said he looks forward to the 18th.

Mayor Genet said also on your desks is a copy of an article about Akron and Summit County Health Departments moving toward a merger. He said he has been saying for almost a year that Akron and the County will become one organization by January 1, 2011.

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

Adjourned: 8:05 P.M.

Frederick S. Maurer
President of Council

Susan Matuch
Clerk of Council