

Council met in **REGULAR SESSION** on Monday, September 9, 2013, at 7:33 P.M. in the Council Chambers with President Maurer presiding. Members present: Avant, Debevec, Endres, Frey, Lysenko, Megyes, Soyars, and Wagner. The Pledge of Allegiance to the Flag was recited and Mr. Wagner gave the Invocation.

It was moved by Mr. Soyars, seconded by Mrs. Debevec, to approve the Minutes of the Regular Legislative Session held on Monday, July 22, 2013, as presented. All Members voted "yea." Motion carried.

It was moved by Mr. Avant, seconded by Mrs. Debevec, to accept the Finance Department Report for July and August 2013, 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. Todd McKenney, 5706 Sherwood Forest Drive, Akron - from the Summit County Good Deeds Project gave a brief update on the status of the Barberton project. He asked Barberton City Council to support the postage cost for this program.

Mr. Jason C. Miller, 266 Lilac Place, Barberton – intern for the Barberton Community Foundation. He introduced himself.

Mr. Bill Roemer, 3616 Southern Road, Richfield – member of the Summit County Council was here to observe.

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. 132-2013

ORDINANCE NO. 132-2013. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – PARKS. AN ORDINANCE APPROPRIATING \$4,000 FROM THE UNAPPROPRIATED ITEM OF THE PARKS CAPITAL IMPROVEMENT FUND TO THE PARKS IMPROVEMENT CAPITAL OUTLAY FUND, TO PURCHASE REPLACEMENT SAFETY SURFACING AT VARIOUS PARKS THROUGHOUT THE CITY, 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. 132-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 133-2013

ORDINANCE NO. 133-2013. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – PARKS - MUM GARDEN. AN ORDINANCE APPROPRIATING \$7,500 FROM THE UNAPPROPRIATED ITEM OF THE BEAUTIFICATION OPERATING FUND TO THE BEAUTIFICATION OPERATING BUDGET, TO MAKE NEEDED IMPROVEMENTS TO THE MUM GARDEN, 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. Avant, that **ORDINANCE NO. 133-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 134-2013

ORDINANCE NO. 134-2013. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – PARKS - 2014 CONCERT SERIES. AN ORDINANCE APPROPRIATING \$3,000 FROM THE UNAPPROPRIATED ITEM OF THE PARKS REVOLVING FUND TO THE PARKS REVOLVING FUND OPERATING BUDGET, TO BE USED TO SECURE ENTERTAINMENT FOR THE 2014 CONCERT SERIES, 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. 134-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 135-2013

ORDINANCE NO. 135-2013. PRESENTED BY: MR. MEGYES. TITLE: FOUNDATION GRANT REQUEST – PARKS - EDGEWOOD BASKETBALL COURT. AN ORDINANCE APPROVING THE SUBMISSION OF A GRANT APPLICATION BY THE DIRECTOR OF PARKS AND RECREATION TO THE BARBERTON COMMUNITY FOUNDATION, IN THE AMOUNT OF \$15,000, TO BE USED FOR THE REPLACEMENT OF THE EDGEWOOD BASKETBALL COURT, AND DECLARING AN EMERGENCY. It was moved by Mr. Megyes, seconded by Mr. Endres, 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. Endres, that **ORDINANCE NO. 135-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 136-2013

ORDINANCE NO. 136-2013. PRESENTED BY: MR. MEGYES. TITLE: FOUNDATION GRANT REQUEST – PARKS - WINTER YOUTH ADVENTURE CAMP. AN ORDINANCE APPROVING THE SUBMISSION OF A GRANT APPLICATION BY THE DIRECTOR OF PARKS AND RECREATION TO THE BARBERTON COMMUNITY FOUNDATION, IN THE AMOUNT OF \$1,000.00, TO BE USED FOR THE WINTER YOUTH ADVENTURE CAMP, AND DECLARING AN EMERGENCY. It was moved by Mr. Megyes, seconded by Mr. Endres, 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. Endres, that **ORDINANCE NO. 136-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 137-2013

ORDINANCE NO. 137-2013. PRESENTED BY: MRS. DEBEVEC. TITLE: INCREASE OF CONTRACT – MID OHIO CONCRETE. AN ORDINANCE AUTHORIZING AN INCREASE IN THE AMOUNT OF THE CONTRACT WITH MID OHIO CONCRETE FOR THE SIDEWALK REPLACEMENT PROGRAM, IN THE AMOUNT OF \$20,000, AND DECLARING AN EMERGENCY. It was moved by Mrs. Debevec, 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. Debevec, seconded by Mr. Soyars, that **ORDINANCE NO. 137-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 138-2013

ORDINANCE NO. 138-2013. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – CDBG FUNDS. AN ORDINANCE APPROPRIATING \$19,767.32 FROM THE UNAPPROPRIATED ITEM OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND INTO VARIOUS COMMUNITY DEVELOPMENT BLOCK GRANT ACCOUNTS TO CARRY OUT ELIGIBLE CDBG ACTIVITIES, AND DECLARING AN EMERGENCY. It was moved by Mr. Avant, seconded by Mrs. Debevec, 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 Mrs. Debevec, that **ORDINANCE NO. 138-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 139-2013

ORDINANCE NO. 139-2013. PRESENTED BY: MRS. DEBEVEC. TITLE: INCREASE OF CONTRACT – NDS. AN ORDINANCE AUTHORIZING THE MAYOR TO INCREASE THE NDS’ CDBG CONTRACT BY NO MORE THAN \$57,000 IN ORDER TO ASSIST ELIGIBLE RESIDENTS AFFECTED BY THE MOST RECENT FLOOD, AND DECLARING AN EMERGENCY. It was moved by Mrs. Debevec, 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 Mrs. Debevec, seconded by Mr. Soyars, that **ORDINANCE NO. 139-2013 BE ADOPTED.** Mr. Lysenko asked how much of this money has been spent on flood victim’s assistance thus far because there was an ordinance earlier for \$50,000. Ms. Sheridan stated that attached to the memo was addresses on what was spent and the totals for NDS. She stated that is the amount that CDBG needs to be allocated and the City has not paid them for that. Mr. Lysenko then asked if that was the financial commitments made and this ordinance will pay them. Ms. Sheridan said that was correct. Mr. Flickinger then stated that the remainder of the \$50,000 was in the storm water operating fund and as of the end of August none of that money has been expended. Mr. Lysenko then asked if there is still \$50,000 left for flood victim assistance. Mr. Palmer spoke and said that we are still trying to itemize. All Members vote “yea.” Motion carried.

ORDINANCE NO. 140-2013

ORDINANCE NO. 140-2013. PRESENTED BY: MR. SOYARS. TITLE: AMEND BARBERTON CODIFIED ORDINANCES - CHAPTER 844 – PEDDLERS AND SOLICITORS. AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 844, “PEDDLERS AND SOLICITORS,” OF THE BARBERTON CODIFIED ORDINANCES. It was moved by Mr. Soyars, seconded by Mr. Lysenko, 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. Soyars, seconded by Mr. Lysenko, that **ORDINANCE NO. 140-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 141-2013

ORDINANCE NO. 141-2013. PRESENTED BY: MR. SOYARS. TITLE: DISPOSAL OF VEHICLES - POLICE DEPARTMENT. AN ORDINANCE AUTHORIZING THE POLICE CHIEF TO SCRAP/SALVAGE EIGHTEEN (18) VEHICLES DEEMED TO BE NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE AND UNFIT AND UNSAFE FOR DISPOSAL IN ANY OTHER MANNER, AND DECLARING AN EMERGENCY. It was moved by Mr. Soyars, seconded by Mr. Lysenko, 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. Soyars, seconded by Mr. Lysenko, that **ORDINANCE NO. 141-2013 BE ADOPTED.** Mr. Maurer asked Mr. Kimble if these vehicles were going to be scraped basically for the metal. Mr. Kimble said yes. Mr. Avant then asked if the ordinance was changed from 17 vehicles to 18 because of a vehicle added from Chief Morber. Mr. Maurer said that was correct. All Members vote “yea.” Motion carried.

ORDINANCE NO. 142-2013

ORDINANCE NO. 142-2013. PRESENTED BY: MR. WAGNER. TITLE: JOINT PARTICIPATION - CITY OF TALLMADGE. AN ORDINANCE AUTHORIZING THE CITY OF TALLMADGE TO PARTICIPATE WITH THE CITY OF BARBERTON’S “REFUSE COLLECTION AND DISPOSAL PROGRAM” PER ORDINANCE NO. 16-2013, AND DECLARING AN EMERGENCY. It was moved by Mr. Wagner, 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. Wagner, seconded by Mr. Megyes, that **ORDINANCE NO. 142-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 143-2013

ORDINANCE NO. 143-2013. PRESENTED BY: MR. LYSENKO. TITLE: SPECIAL ASSESSMENTS - 2012 SIDEWALK REPLACEMENT PROGRAM. AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE OF THE CITY OF BARBERTON TO CERTIFY TO THE SUMMIT COUNTY AUDITOR SPECIAL ASSESSMENTS AGAINST CERTAIN PROPERTIES LOCATED WITHIN THE CITY, UNDER THE 2012 SIDEWALK REPLACEMENT PROGRAM, AND DECLARING AN EMERGENCY. It was moved by Mr. Lysenko, seconded by Mrs. Frey, 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 Mrs. Frey, that **ORDINANCE NO. 143-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 144-2013

ORDINANCE NO. 144-2013. PRESENTED BY: MR. LYSENKO. TITLE: ENTER INTO CONTRACT – STREETS. AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO CONTRACT WITH CAVANAUGH BUILDING CORPORATION, THE LOWEST AND/OR BEST BIDDER, IN THE AMOUNT OF \$76,700.00, FOR THE 2013 STANLEY AVENUE AND BELL STREET IMPROVEMENT CONTRACT, AND DECLARING AN EMERGENCY. It was moved by Mr. Lysenko, seconded by Mrs. Frey, 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 Mrs. Frey, that **ORDINANCE NO. 144-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

ORDINANCE NO. 145-2013

ORDINANCE NO. 145-2013. PRESENTED BY: MR. ENDRES. TITLE: SPECIAL ASSESSMENTS – DEMOLITIONS, BOARD-UPS AND WEED/GRASS CUTTINGS. AN ORDINANCE AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE OF THE CITY OF BARBERTON TO CERTIFY TO THE SUMMIT COUNTY AUDITOR, SPECIAL ASSESSMENTS AGAINST CERTAIN PROPERTIES LOCATED WITHIN THE CITY FOR THE COST OF ORDERED DEMOLITIONS, LIEN SEARCHES, EMERGENCY BOARD-UPS, ENVIRONMENTAL ABATEMENTS AND WEED/GRASS CUTTINGS WHICH TOOK PLACE FROM SEPTEMBER 2012 THROUGH AUGUST 2013, AND DECLARING AN EMERGENCY. It was moved by Mr. Endres, 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. Endres, seconded by Mr. Avant, that **ORDINANCE NO. 145-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

The Clerk read the Fiscal Officer’s Certificate from Raymond E. Flickinger, Director of Finance:

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 \$160,000 notes (the Notes), to be issued in anticipation of the issuance of bonds (the Bonds), for the purpose of paying costs of improving the municipal water system by paying the City’s portion of the cost of replacing portions of the water mains in Summit Street and Grand Boulevard, both between certain termini, 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 of the Revised Code, is 40 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.
3. The maximum maturity of the Notes is October 14, 2030, which date is 20 years from October 14, 2010, the date of the original note issued for this purpose.

ORDINANCE NO. 146-2013

ORDINANCE NO. 146-2013. PRESENTED BY MR. AVANT. TITLE: NOTE ORDINANCE - WATER MAIN IMPROVEMENT PROJECTS. AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$160,000 OF AGGREGATE PRINCIPAL AMOUNT OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE MUNICIPAL WATER SYSTEM BY PAYING THE CITY'S PORTION OF THE COST OF REPLACING PORTIONS OF THE WATER MAINS IN SUMMIT STREET AND GRAND BOULEVARD, BOTH BETWEEN CERTAIN TERMINI, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND DECLARING AN EMERGENCY.

It was moved by Mr. Avant, seconded by Mrs. Debevec, 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 Mrs. Debevec, that **ORDINANCE NO. 146-2013 BE ADOPTED.** All Members vote "yea." Motion carried.

ORDINANCE NO. 147-2013

ORDINANCE NO. 147-2013. PRESENTED BY: MR. AVANT. TITLE: BUDGET REDUCTION. AN ORDINANCE REDUCING THE PERMISSIVE LICENSE TAX CAPITAL OUTLAY BUDGET AND THE STORM WATER MANAGEMENT CAPITAL OUTLAY BUDGET BY \$115,000.00 EACH, AND DECLARING AN EMERGENCY. It

was moved by Mr. Avant, seconded by Mrs. Debevec, 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 Mrs. Debevec, that **ORDINANCE NO. 147-2013 BE ADOPTED.** All Members vote "yea." Motion carried.

ORDINANCE NO. 148-2013

It was moved by Mr. Wagner, seconded by Mr. Megyes to invoke rule 602 to suspend rules 306 and 401 as required. All Members voted "yea." Motion carried. **ORDINANCE NO. 148-2013. PRESENTED BY: MR. WAGNER. 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 \$435,503.71, FOR THE ONGOING 31ST STREET NW / CLEVELAND MASSILLON ROAD PROJECT, AND DECLARING AN EMERGENCY.**

It was moved by Mr. Wagner, 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. Wagner, seconded by Mr. Megyes, that **ORDINANCE NO. 148-2013 BE ADOPTED.** All Members vote "yea." Motion carried.

ORDINANCE NO. 149-2013

ORDINANCE NO. 149-2013. PRESENTED BY: MR. WAGNER. TITLE: AMEND BARBERTON CODIFIED ORDINANCES CHAPTER 1054 – INDUSTRIAL WASTE DISCHARGES. AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 1054, "INDUSTRIAL WASTE DISCHARGES," OF THE BARBERTON CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY. It was moved by Mr. Wagner, seconded by Mr. Megyes to invoke rule 602 to suspend rules 306 and 401. All Members voted "yea." Motion carried. It was moved by Mr. Wagner, 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. Wagner, seconded by Mr. Megyes, that **ORDINANCE NO. 149-2013 BE ADOPTED.** All Members vote “yea.” Motion carried.

SECOND READING OF ORDINANCES AND RESOLUTIONS

RESOLUTION NO. 130-2013

RESOLUTION NO. 130-2013. PRESENTED BY: MR. MAURER. TITLE: BARBERTON COMMUNITY FOUNDATION “SPENDING POLICY - INVASION OF PRINCIPAL FUND”. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON AUTHORIZING CERTAIN AMENDMENTS TO ARTICLE XI, SECTION 4(b) OF THE CODE OF REGULATIONS OF THE BARBERTON COMMUNITY FOUNDATION ENTITLED, “SPENDING POLICY AND INVASION OF PRINCIPAL,” IN ORDER TO FURTHER ENSURE THE PERPETUITY OF THE “PRINCIPAL FUND” AND TO PROVIDE ESSENTIAL GRANT MAKING SERVICES ON A REGULAR BASIS, AND DECLARING AN EMERGENCY. *First Reading 07/22/2013.*

THIRD READING OF ORDINANCES AND RESOLUTIONS

None.

APPOINTMENTS

None.

MISCELLANEOUS AND UNFINISHED BUSINESS

Mr. Maurer stated tomorrow is election day. He stated it is extremely important that we exercise our right and duties to Americans.

Mr. Maurer reminded everyone to fly their flags on September 11th, fly it proudly.

Mr. Avant wanted to encourage the Mayor and the Finance Director to grant Mr. McKenney the money needed. He stated that he was personally helped by this organization. Mr. Avant feels that Barberton residents would benefit from this.

Mr. Megyes stated this past Saturday they had middle school football clean-up day. He said they have 54 football players and 42 showed up for the clean-up. They also had 8 parents. Mr. Megyes would like to thank Charlie Ries and his staff. Mr. Soyars was there with his son helping out. They cleaned up the downtown area – Wooster Road - Erie Bridge all the way to foundation fields. They also cleaned up every park, except for Breitensteine and Crisman. After clean-up they ate 17 pizzas.

COMMUNICATION FROM THE MAYOR

Mr. Judge thanked everyone who came out the past Saturday for the “Bike and Brainstorm” put on by AMATS. He stated they had done this previously in Kent and Green. He said he wanted

to especially thank all the employees of the City who participated. The Mayor also wanted to thank Manor Care, Care Source and NDS for being sponsors and participants.

Mr. Judge reminded everyone tomorrow is voting day. Remember to vote.

Mr. Judge stated on Wednesday, September 11, 9:00 am, there will be a ceremony at Fire Station 1. Everyone is invited.

The Mayor stated on Wednesday evening, 6:00 pm, there will be a meeting at the church on Frank Street to discuss with residents our first retention basin that will be installed at the corner of George and Stanley Avenue area.

Mr. Judge stated on Saturday, September 14th it will be shredding day at the ball fields starting at 9:00 am.

Mr. Judge stated if you drive down Fairview Avenue, the City is finishing up some of the 2013 sidewalk program.

Mr. Judge reminded everyone coming up at the end of this month is the Mum Festival. Later in October is Fall Family Fun Night. Please get with Shane to volunteer.

Mr. Judge stated the City received notice from the Board of Elections that the proposed tax increase in November for road resurfacing and road reconstruction is issue # 8.

It was moved by Mr. Soyars, seconded by Mrs. Debevec, to adjourn.

Adjourned: 8:31 P.M.

Frederick S. Maurer
President of Council

Renee Fox
Clerk of Council