

Council met in **REGULAR SESSION** on Monday, February 12, 2024 at 6:24 P.M. in the Council Chambers with President Greer presiding. The Pledge of Allegiance to the Flag was led by President Greer. The Invocation was given by Mrs. Jennifer Hager.

The Clerk called the roll: Members present: President Greer, Mr. Heitic, Mrs. Thompson, Mrs. Hager, Mr. Griffin, Mrs. Beck, Ms. Gearhart, Mr. Harris. Absent: Mr. Cheatham

Presentation of Resolution 8-2024 to Shannon Davis, Barberton Police Department

It was moved by Mr. Heitic, seconded by Mrs. Thompson to approve the Minutes of the Regular Legislative Meeting held on Monday, January 22, 2024 as presented. No remarks made. All Members present voted “Aye.” Mr. Cheatham was absent, Motion carried.

PETITIONS AND CLAIMS

There were none.

MATTERS REFERRED

Each Council Member, the Mayor, the Safety and Service Directors were given a report prepared by the Council Clerk listing all matters before all committees with their packets.

CITIZENS ADDRESSING COUNCIL

The following Minutes are not transcribed verbatim. This meeting has been digitally recorded in its entirety and is available in the Clerk of Council’s office.

FIRST READING OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 9-2024

PRESENTED BY MRS. THOMPSON TITLE: AUTHORIZE PAYMENT AMERICAN LEGAL PUBLISHING AN ORDINANCE AUTHORIZING THE DIRECTOR OF FINANCE TO PAY AN INVOICE TO AMERICAN LEGAL PUBLISHING, IN THE AMOUNT OF \$5,070.19, AND DECLARING AN EMERGENCY.

It was moved by Mrs. Thompson, seconded by Mr. Heitic, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members present voted “Aye.” Mr. Cheatham was absent, Motion carried. It was moved by Mrs. Thompson, seconded by Mr. Heitic, that **ORDINANCE NO. 9-2023 BE ADOPTED.** All Members present voted “Aye.” Mr. Cheatham was absent, Motion carried.

ORDINANCE NO. 10-2024

PRESENTED BY MRS. THOMPSON TITLE: ENTER INTO CONTRACT – LAW DEPARTMENT DEFENDER’S OFFICE OF SUMMIT COUNTY AN ORDINANCE AUTHORIZING THE LAW DIRECTOR TO ENTER INTO A ONE-YEAR CONTRACT WITH THE LEGAL DEFENDER’S OFFICE OF SUMMIT COUNTY, TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN THE AMOUNT OF \$210 PER CASE, AND DECLARING AN EMERGENCY.

It was moved by Mrs. Thompson, seconded by Mr. Heitic, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members present voted “Aye.” Mr. Cheatham was absent, Motion carried. It was moved by Mrs. Thompson, seconded by Mr. Heitic, that **ORDINANCE NO. 10-2023 BE ADOPTED.** All Members present voted “Aye.” Mr. Cheatham was absent, Motion carried.

ORDINANCE NO. 11-2024

PRESENTED BY MS. GEARHART TITLE: BARBERTON CODIFIED ORDINANCE
UPDATE AN ORDINANCE TO APPROVE THE EDITING AND INCLUSION
OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE
CODIFIED ORDINANCES; TO PROVIDE FOR THE ADOPTION OF NEW MATTER IN THE
UPDATED AND REVISED CODIFIED ORDINANCES; TO REPEAL ORDINANCES AND
RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY.

It was moved by Mrs. Gearhart, seconded by Mrs. Beck, that the rule as required by Section 5.10 of the
Barberton City Charter be suspended. All Members present voted “Aye.” Mr. Cheatham was absent,
Motion carried. It was moved by Mrs. Gearhart, seconded by Mrs. Beck, that **ORDINANCE NO. 11-
2023 BE ADOPTED.** All Members present voted “Aye.” Mr. Cheatham was absent, Motion carried.

ORDINANCE NO. 12-2024

PRESENTED BY MRS. THOMPSON TITLE: AUTHORIZE PAYMENT
HENSCHEN AND ASSOCIATES AN ORDINANCE AUTHORIZING THE DIRECTOR OF
FINANCE TO PAY AN INVOICE TO HENSCHEN ASSOCIATES, IN THE AMOUNT OF
\$5,740.00, AND DECLARING AN EMERGENCY.

It was moved by Mrs. Thompson, seconded by Mr. Heitic, that the rule as required by Section 5.10 of
the Barberton City Charter be suspended. All Members present voted “Aye.” Mr. Cheatham was absent,
Motion carried. It was moved by Mrs. Thompson, seconded by Mr. Heitic, that **ORDINANCE NO.
12-2023 BE ADOPTED.** All Members present voted “Aye.” Mr. Cheatham was absent, Motion
carried.

ORDINANCE NO. 13-2024

PRESENTED BY MRS. THOMPSON TITLE: AUTHORIZE PAYMENT
HENSCHEN AND ASSOCIATES AN ORDINANCE AUTHORIZING THE DIRECTOR OF
FINANCE TO PAY AN INVOICE TO HENSCHEN AND ASSOCIATES, IN THE AMOUNT OF
\$17,720.00, AND DECLARING AN EMERGENCY.

It was moved by Mrs. Thompson, seconded by Mr. Heitic, that the rule as required by Section 5.10 of
the Barberton City Charter be suspended. All Members present voted “Aye.” Mr. Cheatham was absent,
Motion carried. It was moved by Mrs. Thompson, seconded by Mr. Heitic, that **ORDINANCE NO.
13-2023 BE ADOPTED.** All Members present voted “Aye.” Mr. Cheatham was absent, Motion
carried.

This Ended the First Readings

SECOND READING OF ORDINANCES AND RESOLUTIONS

There were none.

THIRD READING OF ORDINANCES AND RESOLUTIONS

There were none.

APPOINTMENTS

There were none.

MISCELLANEOUS AND UNFINISHED BUSINESS

A motion was made by Mr. Heitic, and seconded by Mr. Harris to excuse Councilman Cheatham from this evening's meeting. All members present voting "Aye." Motion Carried. Councilman Cheatham is excused.

A motion was made by President Greer and seconded by Mrs. Beck to reconsider the objection of the Liquor License application for the Enchanted Square. President Greer explained the reason behind this reconsideration as the legal representation for the Enchanted Square stated that the prior vote of Council had some questions regarding conflict of interests. Attorney Daniel Baige and owner Susan Elias-Mellan were introduced and explained the situation and what business Ms. Elias-Mellan was attempting to open as she was unable to attend the Council Meeting in November and was unavailable to address any concerns. The Attorney representing Ms. Elias-Mellan, referring to the recording of the November 27, 2023 Council Meeting, stated that Councilman Jabar explained that he had a business in the area so he felt he had a conflict of interest and yet he stated he was intending to participate in the vote regardless as he brought up the objection to the license application. Attorney Baige stated that Mr. Jaber being allowed to vote is against the City Charter. He further explained the history of the November 27th, 2023 meeting, referring to the recording of that meeting.

Ms. Elias-Mellan stated that she owns and operates the Enchanted Café and listed her awards. She stated she has never had the intention of opening or operating a convenience store and will not be selling fountain drinks, cigarettes, or lottery tickets. She stated her intention is to open a meal-to-go type business, based on and working out of her existing restaurant, offering hot meals, hot, bulk, reheatable hot meals, during the evening dinner hours as her existing restaurant closes at 2:00 P. M. She wants to offer the option to offer beer or wine for people to also purchase to go with their dinner. Ms. Elias-Mellan listed a proposed menu and specialty options she would like to offer.

Mrs. Beck asked if the meals would be prepared in the existing restaurant and then sold in the separate building. Ms. Elias-Mellan stated that is her intention. When Mrs. Beck asked if there was any intention to open a specialty store Ms. Elias-Mellan stated not at this time and is focusing this to satisfy her current customer base.

Mrs. Thompson asked that being with it being so close to the schools she understands how convenient it would be for people attending school events to be able to pick up meals on the way home and wondered if Ms. Mellan had been in contact with the School Board to explain this plan as well. Ms. Mellan stated that the School Board has not responded to the notice that was sent.

Mr. Heitic wanted to clarify the type of license, C1 C2, and that Ms. Mellan has no intentions of serving alcohol inside of the establishment at all. Ms. Mellan stated she has no intention. Mr. Heitic also wanted to clarify the statement made by Attorney Baige that no one came and spoke, referring to any of Mr. Jaber's constituents that signed the petition objecting to the original license application. Mr. Heitic stated that a person did, in fact, come in and spoke and listed numerous violations at that address. When asked, Barberton Police Chief Vince Morber stated that those calls were when the business was a Circle K. Chief Morber also stated that if the call came from that address, it does not mean that the criminal act occurred at that address. Chief Morber explained the process he uses when he receives a liquor license request, and under the guidelines he used, he had no objections to the issuance of a liquor license at that address, as it is not a problematic address. Chief Morber further stated that, as a legislative body, City Council gets a letter yearly regarding the liquor licenses in effect. Council can at that time object to the existing license if it is problematic. Mr. Heitic asked Ms. Mellan if someone comes in off the street after a football game or school event and only wants to purchase alcohol, would she refuse the sale. Ms. Mellan stated that she will be closing at 7:00 P.M. or 8:00 P.M. she would probably be closed at that time or she would advise them to go to Rocky's Drive-thru. Ms. Mellan emphasized that selling beer and wine was not her primary goal. Mrs. Beck clarified that the sale of alcohol only was not prohibited with this type of license. Attorney Baige emphasized that Ms. Mellan is aware of the liquor rules and regulations and that she has no intention of violating them.

Mr. Griffin asked what Ms. Mellan would do if he walked in, prior to her closing hours, and asked to purchase beer only. Ms. Mellan stated that she would not refuse him but would probably direct him to the drive-thru a block away. Mr. Griffin asked what would happen if he said he did not want to go to the drive-thru. Attorney Baige stated that it is anyone's prerogative to purchase beer or wine anywhere they

want, and that it should not be a detriment to Ms. Mellan to sell the beer or wine to anyone she chooses but it is not her primary business to do so.

Mrs. Hager stated she wanted to state that she thinks this discussion has blown up out of proportions. Using the example that someone does not walk into an Olive Garden to purchase a six-pack of beer. Ms. Mellan operates a restaurant and wants to sell a beverage to go with her meals. Knowing the history of Ms. Mellan's restaurant, it is highly unlikely that someone would just walk in and ask for a case of Budweiser. Most restaurants, in Mrs. Hager's opinion, would not permit that type of sale without the purchase of food. Ms. Mellan's main business is a restaurant and she is going to run this new business as a restaurant.

President Greer stated that this discussion was lengthy and asked for any closing questions that will determine the decision on this objection.

Mr. Heitic stated that he wanted to clarify information to Mrs. Hager that a bar will sell a six-pack but the price is different. Mr. Heitic asked, once the ability to make a profit on something is there, how far do you allow that ability to go? The mark-up on the sale of alcohol is enticing.

Mr. Griffin, in closing, stated that he understands that Mrs. Mellan has good intentions. Mr. Griffin asked Ms. Mellan what is going to happen if he walks in there and asks for a six-pack, knowing it will cost three times as much. What if he does not want to go to Rocky's but wants to walk in, pay his money and walk out with a six-pack. What is going to happen? Nothing. No one will stop him. Mrs. Beck asked Mr. Heitic if this happens at his establishment. Mr. Heitic stated it happens often. Attorney Baige stated and bars make a good profit on this but it is not Mrs. Mellan's intention.

In closing, Ms. Mellan stated that she is a five-star restaurant on Yelp. She has no intentions of opening something that is not five-star. She wants something unique, different not typical.

President Greer thanked everyone for their questions and sharing of opinions. He also thanked Mrs. Elias-Mellan for coming in and explaining her position to council. President Greer clarified that this will determine if we void the previous objection sent to the State or not. President Greer then stated that if any one councilperson objects a vote will be taken. President Greer then asked, if any councilmember objected to the issuance of this Liquor License. Mr. Heitic objected and as a final statement he stated that there is already one liquor selling establishment close to the schools. There is a high school and a middle school. Where do we stop allowing liquor selling establishments close to schools? There is also a skatepark very close. Mr. Heitic further explained that he testified at the hearing of the Liquor Board for the convenience store's application on Snyder Avenue which is close to a park and a public housing family development and it still got denied. It was his opinion before and his opinion now.

Mr. Griffin stated that he voted no at the previous vote and will be objecting again this evening. His reasoning is that it is too close to the schools. Mr. Griffin states that he is for order. There is no written direction as to what distance away from schools an establishment must be. He also used the Snyder Avenue convenience store as an example stating that is located next to a park and a public housing family development and that the issues law enforcement has with that address were years ago. We can stop future issues at the Enchanted Square address now. He says that he knows Mrs. Elias-Mellan has good intentions, he does as well but this is the way he feels.

President Greer thanked everyone for their participation. A simple vote will be taken and all those objecting to the liquor license were to raise their hands. Mr. Heitic and Mr. Griffin were the only objections and four (4) objections are needed to continue the objection. President Greer asked the Clerk to rescind the previously issued objection and notify the Board of Liquor Control of Council's decision.

COMMUNICATION FROM THE BODY

Mayor Judge began the 2024 Budget presentations from each department. The Law Department was presented by Lisa Okolish Miller, Law Director. The Mayor presented his budget as well as City Council's. Safety, Human Resources, and the Civil Service budget was presented by Jaime Iceman, Safety and Human Resource Director. The Finance Department budget was presented by Jeremy Flaker, Finance Director and lastly the Service Department budget was presented by Todd Shreve, Service Director.

COMMUNICATION FROM THE MAYOR

Change for Change will be at the Hungarian Club on February 23rd benefiting the Rotary Club. Mayor Judge stated that he met with Josh Gordon, the new Executive Director of the Community Foundation. Mayor Judge also stated that he wanted to thank Fire Department on the great spaghetti dinner benefiting the Esther Ryan Foundation. This is a long-standing fund in the City of Barberton supplying shoes to many of our school students.

Mayor Judge stated that it was mentioned we now have four (4) new police cruisers. Getting these has truly been a test of patience due to setbacks and Covid. But he wanted to thank the Law Director, the Police Chief, the Finance Director and all the officers who worked hard and had patience in getting these cruisers into service.

Representatives from Summa will be at the February 20th meeting to answer any of Council’s questions regarding the sale of the hospital.

Lastly, budget presentations will continue at the February 20th meeting. Council was requested to get all questions to the Mayor prior to that meeting.

President Greer stated that he saw that there was money allocated on the House Bill for the City of Barberton’s Justice Center and asked the Mayor if he could recall the details of that request. The Mayor stated that the wording was for all the necessary general items in regards to remodeling and rehabbing the new City Building and the existing building for these purposes.

With nothing further, it was moved by Mr. Heitic and seconded by Mrs. Hager to adjourn. All Members present voting “Aye” and none apposed.

Meeting Adjourned 8:02 P.M.

Justin Greer
President of Council

Laura J. Ries-Price
Clerk of Council