

Council met in **REGULAR SESSION** on Monday, July 12, 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. Suboticki gave the Invocation, remembering Chief Kallai. President Maurer requested a Moment of Silence for Chief Michael Kallai who passed away on June 30, 2010.

It was moved by Mr. Judge, seconded by Mr. Soyars, to approve the Minutes of the Regular Legislative Session held on Monday, June 28, 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 Public Hearing held on Tuesday, July 6, 2010, regarding the rezoning of 727 Wooster Road West, as presented. All Members voted "yea." Motion carried.

It was moved by Mr. Judge, seconded by Mr. Soyars, to approve the Minutes of the Public Hearing held on Tuesday, July 6, 2010, regarding a text amendment to Chapter 630, 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 June 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. 91-2010**

**ORDINANCE NO. 91-2010. PRESENTED BY: MR. SUBOTICKI. TITLE: ZONING MAP AMENDMENT – 727 WOOSTER ROAD WEST. AN ORDINANCE AUTHORIZING THE REZONING OF 727 WOOSTER ROAD WEST, FROM I-2 (MEDIUM INDUSTRIAL) TO RM-18 (RESIDENTIAL MULTI-FAMILY).** It was moved by Mr. Suboticki, seconded by Mr. Wagner, that the rule as required by Section 5.10 of the Barberton City Charter be suspended. All Members voted "yea." Motion carried. Mr. Suboticki said he is not in favor of this ordinance, and he asked if he should be calling for its adoption. President Maurer said he could move to adopt; he could not speak against it if opposed to it. It was moved by Mr. Suboticki, seconded by Mr. Wagner, that **ORDINANCE NO. 91-2010 BE ADOPTED.** Mr. Avant said we have had the public hearing and he attended the Planning Commission meeting where the Planning Commission decided *not* to accept it -- not to go with the change in zoning. He said this area is set aside for industrial use. He said if we start changing things now, it changes the plans the City made in the past to keep it an industrial zone for future jobs and development. Mr. Avant said the person who owns this property now did not take the proper steps to see if apartments could be put in this structure. He said he looked at the tax documents but did not look at the zoning map, nor did he talk to anyone in the Building Department to see what could be done for this building. He said he did a lot of work and he has people living in there now, but it is a little too late for him to change the City's whole outlook in this area, to spot zone, and to make it a residential area. Mr. Avant said to vote "no" to keep this an industrial zoned area for future use. Mr. Anderson said he will also be voting "no." He said he talked to the gentleman who has his business next door and he stated that he already has people parking in his area and has had to ask them to move from his spots. He said his biggest complaint was not about the people living there, but the parking issues. Mr. Megyes said this structure is in his ward. He said he knows people who wanted to buy that property. He said they

did their homework and they knew they could not put apartments in there, so they dropped it. Mr. Megyes said this gentleman came along and did not bother to do that and this is basically making us look like the bad guys. He said he is going to be voting “no” on this also. President Maurer said he is not an attorney, but an often-used law states: “Ignorance of the law is no excuse.” He said it is unfortunate that Mr. Peveler made that commitment, but if he is going to be upset with someone, he should be upset with the person who sold him the building and did not disclose the situation. He said he should not be upset with the Planning Commission or Council if Council votes to uphold the Planning Commission recommendation. He said this is an unfortunate thing to happen, but if he were in a position to vote, he would vote “no.” President Maurer called for the vote on adoption. No Member voted “yea.” All Members voted “nay.” Motion FAILED, 0-8.

#### **ORDINANCE NO. 92-2010**

**ORDINANCE NO. 92-2010. PRESENTED BY: MR. LYSENKO. TITLE: ENTER INTO CONTRACTS – FY 2010 CDBG ANNUAL ACTION PLAN. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO GRANT AGREEMENTS AND RELATED ASSURANCES, CERTIFICATIONS, AND CONTRACTS WITH NEIGHBORHOOD DEVELOPMENT SERVICES (NDS), BARBERTON COMMUNITY DEVELOPMENT CORPORATION (BCDC), AND FAIR HOUSING ADVOCATES ASSOCIATION (FHAA) TO CARRY OUT THE FY2010 CDBG ANNUAL ACTION PLAN, 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. 92-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

#### **ORDINANCE NO. 93-2010**

**ORDINANCE NO. 93-2010. PRESENTED BY: MR. SOYARS. TITLE: ENTER INTO CONTRACT – TAC COMPUTERS, INC. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A THREE (3) YEAR PROFESSIONAL SERVICES CONTRACT WITH TAC COMPUTERS, INC., TO ENHANCE THE POLICE DEPARTMENT’S COMPUTER AIDED DISPATCH AND RECORDS SYSTEM TO INCLUDE 911 COMPUTERS AT DISPATCH, AND DECLARING AN EMERGENCY.** It was moved by Mr. Soyars, 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. Soyars, seconded by Mr. Megyes, that **ORDINANCE NO. 93-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

#### **ORDINANCE NO. 94-2010**

**ORDINANCE NO. 94-2010. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – ANNA DEAN PARK WALKWAY. AN ORDINANCE APPROPRIATING \$7,561 FROM THE UNAPPROPRIATED ITEM OF THE PARKS AND RECREATION IMPROVEMENT FUND TO THE PARKS AND RECREATION IMPROVEMENT FUND CAPITAL BUDGET, TO REMOVE AND REPLACE WITH CONCRETE, AN ENTRANCE WALKWAY AT ANNA DEAN PARK, 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. 94-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

#### **ORDINANCE NO. 95-2010**

**ORDINANCE NO. 95-2010. PRESENTED BY: MR. AVANT. TITLE: APPROPRIATION – CDBG FUND. AN ORDINANCE APPROPRIATING \$95,404.94 FROM THE UNAPPROPRIATED ITEM OF THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND TO THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND OPERATING BUDGET, DUE TO FAÇADE LOAN PAYMENTS, IN ORDER TO CARRY OUT ELIGIBLE CDBG ACTIVITIES, AND DECLARING AN EMERGENCY.** It was moved by Mr. Avant, 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. Avant, seconded by Mr. Lysenko, that **ORDINANCE NO. 95-2010 BE ADOPTED.** 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 reminded Council to get their letters to Mr. Lysenko, the Rules Committee, regarding the proposed charter amendments that were discussed on Saturday, July 10<sup>th</sup>. He said to Mr. Lysenko to schedule a meeting for a final review of the issues before they call for the ordinances.

President Maurer said the City received some nice, front page coverage with a child playing on one of our spray ponds at Edgewood Park.

President Maurer said July 19<sup>th</sup> is the last committee of the whole meeting before the August recess. He said department heads and members of the Administration should get all requests for legislation in as soon as possible. He said if Council has to have a special meeting in August, of course they will do their duty regardless.

Mr. Megyes said tomorrow, July 13<sup>th</sup>, at 7:00 p.m., he is having a Van Hyning meeting at the Active Adult Center. He said everyone is welcome to attend. He said on Friday and Saturday he is sponsoring a 4<sup>th</sup> Ward Yard Sale. He said the response has been amazing.

Mr. McAviney said the Arts & Craft Show was quite busy and there was a nice turnout. He said he must thank Kara Roy, Lisa McLean, Marty Bidlingmyer, and Donna Keim. President Maurer said he has a great crew there. He said they are some of the best.

**COMMUNICATION FROM THE MAYOR**

Mayor Genet said he passed out flyers for Stark State and AU showing the courses being offered this Fall.

Mayor Genet said he reported last week that the Board of Health voted 4-3 *not* to appeal Judge Stormer’s ruling. He said to his surprise, on Friday, he found out that the attorneys for the Board of Health filed an appeal. He said they are questioning his and Mr. Wagner’s ability to be able to vote, even though they received an ethic’s opinion saying that if they are there in their official capacity, they can participate in it. He said with that said, he and Mrs. Miller met with the Summit County Health District last week. He said they are getting close to where he is comfortable to presenting a contract for Council review. He said that should be forthcoming rather soon.

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

Adjourned: 7:54 P.M.

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Frederick S. Maurer  
President of Council

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Susan Matuch  
Clerk of Council