

Council met in **REGULAR SESSION** on Monday, June 14, 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. Judge gave the Invocation.

It was moved by Mr. Judge, seconded by Mr. Soyars, to approve the Minutes of the Regular Legislative Session held on Monday, May 24, 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 Special Session held on Monday, June 7, 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 May 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**

Mrs. Paulette Kline, Health Commissioner, said she was waiting until after Judge Stormer's decision to discuss her response to the proposal she submitted to Summit County and bring forward a couple of her concerns to Council. She said she spoke to Mr. Nixon and he basically stated again what he had already responded to Mayor Genet in writing. She said the City of Barberton needs a contract similar to Akron's, one that is clearly defined for three years, at four times the amount of funding of any other municipality. She said she wants a contract specifically designed for the City of Barberton based upon the health disparities we have here. She said it was clear in talking to Mr. Nixon that he feels we do not need a special contract; he feels the boilerplate contract used for all the other municipalities in the County of Summit would suffice for Barberton as well. She said point #2 is the retention of all Barberton Health District employees. She said Mr. Nixon said several times that as much as he is committed to retaining the majority of employees, there is no commitment to retain all employees. She said the next point is the issue of the current Barberton Health District facility location being sustained or relocated. She said Mr. Nixon said at this time he is committed to keeping the facility in Barberton, and he may be interested down the road in talking to the Community Foundation about renovation or a new building; however, he could not assure that the building would be in Barberton. She said her position as Health Commissioner being eliminated would not be a point of any type of debate. She said we would have one Board of Health member on the Summit County Health District Board and there was no problem with that. She said there would be a Board of Health Advisory Committee in Barberton that would be encouraged to attend meetings and would give quarterly reports to City Council. She said with the disparities here in Barberton -- 22% of our population is living in poverty and about 31% of some children are at some level of poverty -- we need an agreement to address these specific needs, a need to fund at a level greater than the minimal funding for other municipalities, a level of no less than 200%. She said she met with the Director of the Community Foundation, Larry Lallo, and as it stands now, funding would not cover operational costs, but he talked about other entities where there is funding available for a special condition based on how those donations are made at the Foundation for that designated entity. She said two years ago she brought before the Mayor an option to go to the Board of Health for a levy to acquire the additional funds needed, but at that time, it was suggested not to move forward with that option. She said Mr. Nixon said he had designated a liaison officer with the City of Norton when they took over the contract, so there would be no problem with the liaison officer. She said that completes the report and any concerns that she wanted to bring to Council's attention at this time.

Ms. Joyce Anderson, 308 Van Street, Barberton, said the Barberton Health Department is a privately-owned business established by the former Health Commissioner, Joe Harrison, and City Council Member, John Lazar. She said the mission of this privately-owned business was

specifically established to regionalize the Health Department with Summit County and it was set up on the pretense that its owners would provide grant writing to support the Health Department's operating budget in lieu of the City's mandated funding. She said no part of the City Charter or the State Codes provide the Mayor nor any other elected official with the authority to negotiate or enter into a contract regarding any issue related to the Barberton Sanitation and Health Department unless the Board of Health Directors approved such matter first, which, to date, they have not. She said the Mayor has the authority to enter into and rescind a contract regarding non-health department issues; therefore, the Mayor does not need to request that council members rescind this contract this evening since the Mayor and/or the Law Director, through the Board of Control, can put the private corporation on notice -- rescinding the contract -- without Council acting tonight. She said to her knowledge to date, no one has ever rescinded a contract on city council, so she questions why tonight. She said the Mayor and City Council can rescind this contract, but nothing legally will come of it due to the structure of this Charter and the Board of Health bylaws, being that funding for the operation of the Department of Health be funded by the City as mandated. She said rescinding the contract will finally put an end to the unnecessary litigation and the related expenses that the City and the Board of Health had to incur due to neither side's attorneys making this information public to Council. She said rescinding this contract will prevent further funding of a privately-owned corporation that, for some time now, has not had any part of the Board of Health. She said rescinding this contract will leave the Board of Sanitation and Health Department fully in tact, including their employees, Board Members, and operating funds provided by the City as mandated. She said rescinding the contract will not permit the City to discontinue providing the Health Department operating costs nor will it authorize the Health Commissioner or the Mayor to enter into the contract with Summit County without the Board's approval first. She said several Board Members have unofficially been notified of special funding that will be available to the Department, allowing the Department to operate in a separate building that is not owned by the City and without the City's future financial assistance. She said this funding will continue well beyond ten years and reduce the national health care coverage overall costs while providing resources to the department for its current programs, in addition to new programs. She said rescinding this contract will be doing the Health Department and citizens a huge favor, specifically saving the City and its citizens the cost of continued litigation fees, and more specifically the emotional roller coaster ride the Health Department employees have had to ride for nearly thirty years now.

**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**

##### **RESOLUTION NO. 78-2010**

**RESOLUTION NO. 78-2010. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. SOYARS. TITLE: COMMENDATION – SHANE SMITH. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO HONOR AND GIVE PUBLIC RECOGNITION TO SHANE SMITH FOR THE QUICK ACTIONS TAKEN AFTER DISCOVERING A HOUSE FIRE AT 34 MAY STREET ON MAY 25, 2010, AND HELPING TO POSSIBLY SAVE THE LIVES OF DIANE CRADDOCK AND HER FOUR-YEAR-OLD GRANDSON, JABEN.** 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 **RESOLUTION NO. 78-2010 BE ADOPTED.** President Maurer said it is often said that heroes walk around us everyday and nobody notices them. He said we have a private citizen and two officers who stepped up to the plate and may have saved the lives of a grandmother and a little boy. He said these three people are due our respect and gratitude. President Maurer called for the vote on adoption. All Members voted "yea." Motion carried.

##### **RESOLUTION NO. 79-2010**

**RESOLUTION NO. 79-2010. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. SOYARS. TITLE: COMMENDATION – OFFICER JASON STATEN. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO HONOR AND GIVE PUBLIC RECOGNITION TO OFFICER JASON STATEN FOR THE QUICK ACTIONS TAKEN AFTER RESPONDING TO THE SCENE OF A HOUSE FIRE AT 34 MAY STREET ON MAY 25, 2010, AND HELPING TO POSSIBLY SAVE THE LIVES OF DIANE CRADDOCK AND HER FOUR-YEAR-OLD GRANDSON, JABEN.** 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 **RESOLUTION NO. 79-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

**RESOLUTION NO. 80-2010**

**RESOLUTION NO. 80-2010. PRESENTED BY: ALL OF COUNCIL. SPONSORED BY: MR. SOYARS. TITLE: COMMENDATION – LT. VINCE MORBER. A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON TO HONOR AND GIVE PUBLIC RECOGNITION TO LT. VINCE MORBER FOR THE QUICK ACTIONS TAKEN AFTER RESPONDING TO THE SCENE OF A HOUSE FIRE AT 34 MAY STREET ON MAY 25, 2010, AND HELPING TO POSSIBLY SAVE THE LIVES OF DIANE CRADDOCK AND HER FOUR-YEAR-OLD GRANDSON, JABEN.** 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 **RESOLUTION NO. 80-2010 BE ADOPTED.** Chief Kallai said Mr. Smith, Lt. Morber, and Officer Staten were unable to be here this evening; however, all three of them, when he spoke to them, wanted to thank Council for recognizing them for doing what needed to be done at that time. Mr. Suboticki said he would like to publicly thank these three individuals for seeing something and doing their jobs ... and beyond their jobs ... to secure the safety of these two individuals in his Ward. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

**ORDINANCE NO. 81-2010**

**ORDINANCE NO. 81-2010. PRESENTED BY: MR. SOYARS. 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 TO DECLARE 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. 81-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 82-2010**

**ORDINANCE NO. 82-2010. PRESENTED BY: MR. SUBOTICKI. TITLE: AMENDING INTERNATIONAL PROPERTY MAINTENANCE CODE. AN ORDINANCE AMENDING SECTION 304, “EXTERIOR STRUCTURE,” OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE BY ADDING A REGULATION REGARDING FURNITURE ON DECKS, PORCHES, BALCONIES, AND YARD AREAS, AND DECLARING AN EMERGENCY.** 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. It was moved by Mr. Suboticki, seconded by Mr. Wagner, that **ORDINANCE NO. 82-2010 BE ADOPTED.** Mr. Bauschlinger, Building Commissioner, said Council would probably see a few more of these regulations in the future. He said Mr. Ken Cox addressed the Planning Committee today regarding some specific things that are not covered in the general property maintenance code. He said they will be looking at those issues and bring them to Council. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

**ORDINANCE NO. 83-2010**

**ORDINANCE NO. 83-2010. PRESENTED BY: MR. AVANT. TITLE: CHANGE ORDER – SIGNAL SERVICE. AN ORDINANCE AUTHORIZING A CHANGE ORDER FOR SIGNAL SERVICE, IN THE AMOUNT OF \$11,407.60, FOR THE COMPLETION OF THE STATE STREET AND FIFTH STREET FIRE STATION TRAFFIC SIGNALIZATION PROJECT, AND DECLARING AN EMERGENCY.** It was moved by Mr. Avant, 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. Avant, seconded by Mr. Judge, that **ORDINANCE NO. 83-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.

**ORDINANCE NO. 84-2010**

**ORDINANCE NO. 84-2010. PRESENTED BY: MR. AVANT. TITLE: ENTER INTO CONTRACT – INSURANCE COVERAGE – PROPERTY/VEHICLE/LIABILITY. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT, WITHOUT COMPETITIVE BIDDING, WITH WICHERT INSURANCE COMPANY, CONSTITUTING A ONE YEAR EXTENSION OF THE CURRENT CONTRACT FOR THE CITY’S PROPERTY/VEHICLE/LIABILITY INSURANCE COVERAGE, AND DECLARING AN EMERGENCY.**

*First Reading – June 14, 2010.*

**SECOND READING OF ORDINANCES AND RESOLUTIONS**

None.

**THIRD READING OF ORDINANCES AND RESOLUTIONS**

**ORDINANCE NO. 64-2010**

**ORDINANCE NO. 64-2010. PRESENTED BY: MR. SOYARS. TITLE: AMENDING BARBERTON CODIFIED ORDINANCES – OHIO & NATIONAL FIRE CODES – CHAPTER 1604. AN ORDINANCE AMENDING CHAPTER 1604, “OHIO & NATIONAL FIRE CODES,” BY ADDING A SECTION TO INCLUDE THAT CERTAIN STRUCTURES BE REQUIRED TO HAVE RAPID ENTRY KEY LOCK BOXES ON THEIR BUILDINGS FOR USE BY THE FIRE DEPARTMENT, AND DECLARING AN EMERGENCY. *First Reading – May 10, 2010. Second Reading – May 24, 2010. Third Reading – June 14, 2010.* It was moved by Mr. Soyars, seconded by Mr. Megyes, that **ORDINANCE NO. 64-2010 BE AMENDED** by adding subsection “e” to the ordinance, now dated 06-10-10. All Members voted “yea.” Motion carried. It was moved by Mr. Soyars, seconded by Mr. Megyes, that **ORDINANCE NO. 64-2010 BE ADOPTED, AS AMENDED.** Mr. Wagner, Mr. Suboticki, Mr. Soyars, Mr. Megyes, Mr. Lysenko, Mr. Avant, and Mr. Anderson voted “yea.” Mr. Judge voted “nay.” Motion carried, 7-1.**

**ORDINANCE NO. 65-2010**

**ORDINANCE NO. 65-2010. PRESENTED BY: MR. SOYARS. TITLE: REPEAL CHAPTER 836 – ADOPT NEW CHAPTER – BARBERTON CODIFIED ORDINANCES – “AMUSEMENT DEVICES, SKILL-BASED AMUSEMENT MACHINES, AND ARCADES.” AN ORDINANCE REPEALING CHAPTER 836, “AMUSEMENT DEVICES, SKILL-BASED AMUSEMENT MACHINES, AND ARCADES,” OF THE BARBERTON CODIFIED ORDINANCES; AND ADOPTING A NEW CHAPTER 836 OF THE BARBERTON CODIFIED ORDINANCES, AND DECLARING AN EMERGENCY. *First Reading – May 10, 2010. Second Reading – May 24, 2010.* 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 **POSTPONED until the next Regular Legislative Meeting on June 28, 2010.** All Members voted “yea.” Motion carried.**

**ORDINANCE NO. 67-2010**

**ORDINANCE NO. 67-2010. PRESENTED BY: MR. MEGYES. TITLE: CITY SANITARY SEWERS – ASSESSMENT FOR NEW LINES. AN ORDINANCE ESTABLISHING ASSESSMENTS FOR PROPERTY OWNERS WITH NO CITY SANITARY SEWERS AND NO SEWER LINES ON THEIR STREETS, AND DECLARING AN EMERGENCY. *First Reading – May 10, 2010. Second Reading – May 24, 2010. Third Reading – June 14, 2010.* It was moved by Mr. Megyes, seconded by Mr. Lysenko, to **AMEND ORDINANCE NO. 67-2010.** Mr. Megyes said there were many changes to this ordinance from its First Reading. The amended Ordinance No. 67-2010, dated 06/11/2010, reads: **TITLE: CITY SANITARY SEWERS AND WATER – RATES FOR ASSESSMENT FOR NEW LINES. AN ORDINANCE ESTABLISHING RATES FOR ASSESSMENTS FOR PROPERTY OWNERS WITH NO CITY SANITARY SEWERS AND NO SEWER LINES AND/OR NO WATER ON THEIR STREETS, AND DECLARING AN EMERGENCY.** President Maurer called for the vote to amend. All Members voted “yea.” Motion carried. It was moved by Mr. Megyes, seconded by Mr. Lysenko, that **ORDINANCE NO. 67-2010 BE ADOPTED, AS AMENDED.** All Members voted “yea.” Motion carried.**

**ORDINANCE NO. 68-2010**

**ORDINANCE NO. 68-2010. PRESENTED BY: MR. MEGYES. TITLE: AMENDING BARBERTON CODIFIED ORDINANCES – SECTION 1040.10 – “UTILITY BILLING REVIEW BOARD.” AN ORDINANCE OF THE COUNCIL OF THE CITY OF BARBERTON AMENDING SECTION 1040.10 OF THE BARBERTON CODIFIED ORDINANCES, “UTILITY BILLING REVIEW BOARD,” AND DECLARING AN EMERGENCY. *First Reading – May 10, 2010. Second Reading – May 24, 2010. Third Reading – June 14, 2010.* It was moved by Mr. Megyes, seconded by Mr. Lysenko, that **ORDINANCE NO. 68-2010 BE ADOPTED.** All Members voted “yea.” Motion carried.**

**THIRD READING POSTPONED**  
**UNTIL AFTER JUDGE STORMER’S DECISION:**

**ORDINANCE NO. 30-2010**

**ORDINANCE NO. 30-2010. PRESENTED BY: MR. WAGNER. TITLE: CANCELLATION OF CONTRACT – BARBERTON BOARD OF HEALTH / CITY OF BARBERTON. AN ORDINANCE AUTHORIZING THE MAYOR TO CANCEL THE CURRENT CONTRACT BETWEEN THE BARBERTON BOARD OF HEALTH AND THE CITY OF BARBERTON. (as amended June 7, 2010) *First Reading – March 8, 2010. Second Reading – March 22, 2010. Third Reading – June 14, 2010.* It was moved by Mr. Wagner, seconded by Mr. Avant, that **ORDINANCE NO. 30-2010 BE ADOPTED, AS AMENDED.** Mr. Wagner said this is one of the most difficult legislative issues he has had to deal with ever -- even when he was a council member in the City of Norton -- because this involves people. He said they tried to protect those jobs; they tried to make those people whole, and he certainly hopes that this results in that. He said he has his feelings about this ordinance; however, he did make the statement that whatever the judge ruled, he would live with it. Mr. Wagner said Judge Stormer made her ruling, so he will keep his word to support the ordinance. Mr. Anderson said he will vote for this tonight and he is anxious to see a contract from Summit County because he is anxious to know how long they will be in the City. He said Council needs to approve that contract. He said if that contract is not up to what Council likes, it will not be approved and we will be back to square one. Mr. Anderson said this is just one step in the process. President Maurer said he has been on Council almost fifteen years and this is probably one of the most difficult decisions Council has had to make. He said our biggest concern now is making sure that our Health Department employees are indeed covered. He said this is not the time or the economy to go out looking for work. President Maurer said the employees of the Health Department have been loyal to us, the Health Commissions have been loyal to us, and he is sure the Mayor will do his very best to cover everyone the best he can. Mayor Genet said he can appreciate what Mr. Wagner has gone through and he offers his apology. He said Mr. Wagner was a new member of Council, thrown in the fire with this particular ordinance that most of us have been talking about for more than a year. He said from day one, after the Assessment Committee came back with its report, he approached the Health employees and stayed pretty consistent with his priorities, that are threefold: 1) to make sure adequate public health services are provided to the residents of Barberton -- that, undoubtedly, is the number one priority he has; 2) to ensure gainful employment for the current health department employees that we have; and 3) in front of all that is to be fiscally responsible for the taxpayers we represent. Mayor Genet said we have debated this issue for more than a year. He said obviously, change is taking place with Summit County. He said he wants to assure everyone that he will continue to work towards meeting those goals and, as Mr. Anderson correctly pointed out, this is just one step of a multiple-step process. He said there is a Board of Health Meeting on Wednesday and he is sure this will be discussed at that meeting. Mayor Genet said it is easy to sit back and do nothing and let others lead. He said it really takes a lot of courage to step out of your comfort zone and vote in the manner to help position the city in a better place for long term. He said regionalization -- just for the sake of regionalization -- is not good; however, when it makes sense, he believes that is when you have to seize that opportunity and embrace it. Mayor Genet said hopefully, we can get this whole process solidified as soon as possible. He said by January 1, there will probably be one health department in Summit County. He said that makes the most sense. He said he would ask for Council’s support. Mayor Genet said he has known Mr. Wagner for many, many years and he has always been a man of his word, so he knows he will support this. He said on Wednesday at the Board of Health Meeting, we are going to have a lot more issues to discuss. He said he respects everyone’s opinion and he knows that no council member has taken this lightly. Mayor Genet said there comes a point in time when**

we need to make a decision and move on for the betterment of the community. President Maurer called for the vote on adoption. All Members voted “yea.” Motion carried.

### **APPOINTMENTS**

#### **BARBERTON COMMUNITY FOUNDATION - BOARD OF DIRECTORS**

**Thomas Harnden**

Immediately – April 2013

It was moved by Mr. Avant, seconded by Mr. Anderson, to confirm the appointment of Mr. Thomas Harnden to the Barberton Community Foundation Board of Directors. All Members voted “yea.” Motion carried.

### **MISCELLANEOUS AND UNFINISHED BUSINESS**

Mr. Megyes said on Thursday at 7:00 p.m. he has a neighborhood watch group meeting with the Van Hyning Neighborhood at the Active Adult Community Center.

Mr. Megyes said on Tuesday, June 22<sup>nd</sup>, there is a public meeting for the Summit Road/Glenn Street Watermain Replacement Project at the Barberton Church of God, 855 N. Summit Road. He said the Barberton neighbors received their letters; Norton will be getting their letters. He said this is a “meeting of the minds” to make sure everyone is on the same page. He said QCI and CT will be there, as well as Norton and Barberton officials.

Mr. Suboticki said there will be a Planning Commission Meeting on Wednesday, June 16<sup>th</sup>. at 6:30 p.m. and a Board of Zoning Appeals Meeting on Thursday at 7:30 p.m., with both meetings being held in Council Chambers.

### **COMMUNICATION FROM THE MAYOR**

Mayor Genet said today, with our building inspectors, the City has launched a pro-active initiative regarding property maintenance issues. He said building inspectors will be going out into the neighborhoods to do a drive-by of every street in the city, starting in the First Ward. He said property owners are going to be notified if they have property maintenance issues. He said in year’s past, we have always been *reactive* -- we would wait to get a complaint from a neighbor or council member. He said it is not going to be cured overnight, but it is something that we will attempt to do to stabilize and improve our housing stock in the city. He said commercial buildings are not exempt from this either.

Mayor Genet said Mr. Larry Lallo, the new Executive Director of the Foundation, is with us. He said he would like to encourage council members to call the Foundation office and set up a time to speak with him. He said Mr. Lallo wants to engage with council members.

Mayor Genet said he wanted to thank council on the passage of the previous ordinance. He said his feet are now held to the fire to get a contract, as Mr. Anderson had indicated, that will be acceptable to Council and to be able to move forward with the employees and public health services.

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

Adjourned: 8:18 P.M.

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Frederick S. Maurer  
President of Council

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Susan Matuch  
Clerk of Council