

WICKLIFFE CITY COUNCIL MEETING  
March 23, 2009 - 7:00 p.m.

A regular meeting of Wickliffe City Council was called to order by Council President William Margalis at 7:00 p.m. on Monday, March 23, 2009. The following were present at roll call:

MAYOR: Thomas W. Ruffner, excused  
COUNCIL PRESIDENT: William Margalis  
COUNCIL: Jaworski, Koski, Krych, Levar, Luther, Matyja  
LAW DIRECTOR: William C. Gargiulo  
FINANCE DIRECTOR: Martin Germ  
ACTING SVS. DIRECTOR: Donald Kerniskey  
ENGINEER: Peter J. Formica  
BUILDING COMMISSIONER: Raymond F. Sack  
RECREATION DIRECTOR: Timothy E. Stopp  
POLICE CHIEF: Randy E. Ice  
FIRE CHIEF: Daniel L. Helsel  
ECONOMIC DEVELOPMENT: Jason Laver

APPROVAL OF MINUTES:

Moved by Ms. Luther, seconded by Mr. Jaworski that the minutes of the council meeting of March 9, 2009 be approved as presented.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja  
No: None

Motion carried.

REPORTS AND COMMUNICATIONS FROM MAYOR/SAFETY DIRECTOR - Mayor Ruffner reported the following: Referred to an e-mail from the Lake County Mayors and City Managers which contains the official list of shovel ready projects that the County has authorized to prioritize. He reported that he toured the Wickliffe school facilities at which they are doing quite a bit of building maintenance and repairs. A letter was received from the United Steel Workers asking for a resolution to "buy American" and this will be prepared for the next meeting. He referred to the agenda tonight and the ordinance concerning the Economic Development Coordinator contract, this is for review and will be left on first reading for a committee to discuss. He has approved this. He also requested to place into committee the Ridge Road bike lane idea, he has talked to the Engineer about what exactly would happen to Ridge Road if we were to investigate this as to how properties would be affected and the cost. Mr. Margalis placed this into the IMPROVEMENT COMMITTEE. He further added under New Business: ODOT salt bids and also added an executive session at the end of the meeting to discuss personnel.

REPORTS AND COMMUNICATIONS FROM LAW DIRECTOR - Mr. Gargiulo commented on the following: Vitantonio vs. the City of Wickliffe in the Eleventh District Court of Appeals remanded that case back to the trial court; that case concerns BZA ruling. The remanded case will probably be ruled moot because Vitantonio does not own the property any more. When the time comes to consider the salt bid Mr. Gargiulo said he would have some information for council. He further referred to the exercise equipment bid on the agenda and reported that he will have more information on that also.

COMMUNICATIONS FROM COUNCIL PRESIDENT - Mr. Margalis referred to a letter from Mr. Raymond Fuerst regarding his opposition to allowing the Barrel Room Winery to allow music being played outside. The Planning Commission also received a copy of this letter and this will be taken into consideration when this case comes before them. He reported that last Monday an economic development review meeting was held with the County regarding our Enterprise Zone Agreement with the CRA's and the businesses. Presently we have two agreements in place, one is with Dr. Goldstein as a CRA and with the review it was felt that he was in compliance with the agreement and we recommended continuing that agreement. The other one was Hall Chemical which is the only enterprise zone agreement that we have. Prior to this meeting Mr. Germ got a call from the Lake County Economic Development Center saying that they had not received the paper work from Hall Chemical for the review. In investigating this it seems that they are mothballing their operation in Wickliffe because of the decline in the metals recycling business. Their agreement has been since 2004 and they had their highest payroll dollar in 2008. After September the bottom dropped out of their business to practically nothing at the end of January. There are only four or five employees left and they are selling their materials. He asked the Law Director to look at that agreement with Hall Chemical and see if there is any claw back provision in there because the parent company is still operating out of Akron.

Mr. Jaworski asked if there will be any EPA issues with this. Chief Helsel commented that if they close EPA will be contacted and there are regulations on how to handle this.

ADDITIONS OR AMENDMENTS TO THE AGENDA

Mr. Matyja added item (d) under New Business: Grass and weed removal program.

ADMINISTRATORS:

A. Police Chief - Chief Ice had no report.

B. Fire Chief - Chief Helsel had no report.

C. Finance Director - Mr. Germ reported that the auditor, Charles Harris & Associates, will be in on April 6<sup>th</sup> to begin their field work for the 2007-08 fiscal years. Target completion date will be June 30<sup>th</sup>.

D. Engineer - Report attached. Mr. Formica added that the bid for Empire Road project improvements is scheduled for this coming Friday.

E. Service Director - Report attached. Mr. Kerniskey referred to a packet presented to council regarding the time study for the I-90 bridge. Mr. Margalis referred to the memo from the Mayor regarding objection to the right turn on red at Bishop Road. He asked if the city has the authority and the ability to make that decision. Mr. Kerniskey replied that the city could ask the state to change it and we could also make our own time

changes on that. We maintain the traffic signals. After doing the time study the biggest complaint from Willoughby Hills was that cars were backing up down to the freeway. Mr. Kerniskey also stated that at the present time we have two lanes making the right hand turn. The longest a car waits is a minute and a half. The lights are all working with one another to allow traffic to flow through there freely. He also videotaped how things are at that intersection. He does not recommend making any changes to the timing or the sign. Mr. Margalis stated that this answer is good enough for him. He asked the Mayor to share this information with Willoughby Hills. The Mayor replied that he would send the recommendation to them along with the study.

F. Building Commissioner - Mr. Sack commented on the Ponderosa property and the contractor has completed its work with the County and he expects to have everything completed by April 15 or April 20 to start the demolition. Mr. Matyja asked for an update on the Ganley situation to which Mr. Sack replied that he talked to them and the Police have been down there to have them discontinue the speakers so they had to get the phone company to disconnect them.

G. Recreation Director - Mr. Stopp had no report. Mr. Krych asked if there was an update on the drain coverage for the pools. Mr. Stopp answered that the Health Department has not contacted him, they were supposed to meet with him and walk through the pools thereby giving us their recommendation but he has not heard from them but he will call them again.

H. Economic Development Coordinator - Mr. Laver reviewed his report which is attached. He referred to Parker Hannifin and the program they are interested in regarding creating some sort of a internship program with the high school students.

#### AUDIENCE PARTICIPATION OPENED

Orville Swartz, 923 Bryn Mawr, addressed council regarding a problem he has with a plumbing company and the work done on the sewers at his home. He is requesting a paper that he needs to go before the court regarding this case. The Mayor added that he has spoken with Mr. Swartz and the Law Director has been dealing with this to assist him. Mr. Gargiulo added that the paper Mr. Swartz is seeking is the procedure that the city uses which indicates that the city takes responsibility for the sewer in the right of way and not going into the house. He has no problem with the Service Department releasing that information.

Mr. Matyja added that he talked to Mr. Swartz many times and he is confused about that we know it is the city's responsibility from test T's to the street. The question he is confused about is how does a private contractor go into a person's house without that person's approval. That's what Mr. Swartz is saying that he never gave the okay for the plumbing company to go down his basement. He asked what is the procedure when the city cannot break the sewer that goes on private property. Mr.

Gargiulo replied that was the issue before the court and the evidence shown to the magistrate is that the plumbing company showed him that they did have permission. Mr. Swartz is trying to have Judge Allen look at it again. Mr. Matyja asked if city workers do go on private property or do we refer to the problem to a business so this does not happen again. Mr. Kerniskey read the service director's report from January 4, 2008 describing the events which took place at that time and location. What happened with Mr. Swartz and Formica is between them. It is not the responsibility of the city to go from the test T to the house.

AUDIENCE PARTICIPATION CLOSED

COMMITTEE REPORTS

Mr. Levar read the report of the Economic Development Committee meeting held on March 18<sup>th</sup> which is attached.

THERE WERE NO COMMISSION REPORTS

OLD BUSINESS

a) Bid Acceptance - Exercise stations at Jindra Park - Mr. Stopp reviewed the bids which were received and are attached. Mr. Stopp recommends the purchase of the Life Trail product from Playworld Midstates was the most responsive bid to this and to reject all other bids. He also recommends the rejection of Alternate A and Alternate B from all bidders. A grant of \$26,940.00 is being received from the Department of Natural Resources for this equipment so that will go toward this. He is in the process of getting some bids from local contractors to do the cement pads. Mr. Gargiulo explained the term "responsive." Mr. Stopp also added that some of the equipment would not hold up in this weather and some were not the proper equipment which people could use.

Moved by Mr. Levar seconded by Ms. Koski that council accept the bid from Playworld Midstates, 5828 Zarley St., Suite B, New Albany, Ohio 43054 for the exercise equipment at Jindra Park at a base bid price of \$30,799.00 as being the lowest and most responsive bidder and that all other bids be rejected.

Mr. Margalis added that we budgeted \$38,000 in our capital improvement budget for this so with the equipment and the grant and the concrete we should be underneath that.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja  
No: None

Motion carried.

NEW BUSINESS

- a) Bid Opening - Labor and equipment to stripe sundry streets; sodium hypochlorite and other pool chemicals; and furnishing of fireworks display March 26, 2009
- b) Empire Road watermain and pavement improvements OPWC funded project - March 27, 2009
- c) Concession operations at Coulby Park - March 26, 2009
- d) ODOT Salt Bid - Mr. Margalis stated that this came up at our last meeting and we received information which Mr. Kerniskey will report on. Mr. Kerniskey said that he has compiled a list of all the counties and cities going into this bid with ODOT trying to get a better price on salt for this winter, there are over 350 municipalities right now. This is a binding agreement, the call up date is March 25<sup>th</sup> to get into this project. The salt companies have not been very competitive. The average cost right now for salt is \$62.47 a ton. We were at 66 tons this past year. We will not lose any position as far as how we receive our salt. We are just negotiating a price on salt. We will be contracted to a certain amount of salt and the only problem we would have is once we reach that amount of salt and we need more then we have to wait in line for other cities that still have not fulfilled their bid quota. The suggestion this year would be that we use about 3,500 tons of salt and would like to increase it to 4,000 for the upcoming year, we are only required to use 80% of that in order not to suffer any penalties.

Mr. Gargiulo added that he took the liberty to check Section 5513.01 of the Ohio Revised Code sub-section (b) which deals with this contract and the important thing that he saw there is that once the city agrees to the contract they are also agreeing to be bound by the contract so as long as everyone is aware of that condition there is no problem with this. Mr. Levar said he has no problem with this program but he does want to say that in regards to the environment is the storm water management that the state is coming out to do audits and inspections. The other thing is that the Cuyahoga County service department organization has developed a sensible salting practice. We need to look at this to basically try to zero in on certain hours of operation with salt removal instead of plowing snow and throwing salt down at certain hours that just the plowing be done and do a limited quantity of salting on secondary streets. He suggested this be placed into committee for possible improvement. Mr. Margalis agreed that the best way to save money on salt is to conserve it and this program will help.

Moved by Mr. Margalis seconded by Mr. Krych that council authorize the Service Director and the Law Director to complete the application for the ODOT salt bid for 2009 and to set the amount at 4,000 tons.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja  
No: None

Motion carried.

e) Grass and weed removal program - Mr. Matyja commented that last spring some residents came up and complained about grass from vacant homes and lots were not cut. By the time we cited them the grass grew to eight inches. We know this will happen again and he asked the administration to look at a program of trying to be proactive. There have been too many violations. Mr. Sack replied that he will review the ordinance and report back to council.

#### ORDINANCES

ORDINANCE NO. 2009-06 AN ORDINANCE PROVIDING FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF WICKLIFFE FOR THE PERIOD BEGINNING JANUARY 1, 2009 AND ENDING DECEMBER 31, 2009. **THIRD READING.** Read by title.

Moved by Mr. Margalis seconded by Ms. Koski that Ordinance No. 2009-06 be adopted as presented.

ROLL CALL: Yes: Koski, Krych, Luther, Margalis, Matyja  
No: Jaworski, Levar

Motion carried. Ordinance No. 2009-06 adopted.

Mr. Margalis commented that this was a tough budget to pass because it is not balanced to what our expenditures are to our income for this year as a whole. Revenue is down and our expenses have been reduced. The fortunate thing we do have is that in our general fund we do have at the end of the year approximately five million dollars in our general fund. We are hoping by the end of this year that it will come in at about a four and a half million dollar carry over at the end of 2009.

The Mayor complimented council on digging into the problem. Things have changed including insurance that continues to rise almost out of control. The residents of this city should realize this city has no levies other than the golf course, no extra fees for garbage pickup, etc. that this city has prudently taken care of its finances. Over the past years we were able to have money in the carry-over account for a rainy day, well that rainy day is here. We can continue the most of the same services the city offers its residents. This council has done a great job of not passing along those extra expenses to the residents. This has been the toughest budget review since 9/11.

ORDINANCE NO. 2009-07 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF WICKLIFFE, OHIO TO ENTER INTO A CONTRACT WITH ECONOMIC DEVELOPMENT SOLUTIONS, LLC FOR THE PROVISION OF ECONOMIC DEVELOPMENT SERVICES, AND DECLARING AN EMERGENCY. Read by title.

This Ordinance placed on first reading and referred to the FINANCE COMMITTEE. Mr. Margalis called for a Finance Committee meeting for Monday, March 30 at 7:00 p.m. to discuss this ordinance. Mr. Matyja added an Improvement Committee meeting after the Finance Committee meeting to discuss the Ridge Road bike trail.

MISCELLANEOUS

Mr. Levar requested a resolution be presented to the Wickliffe Library for their outstanding rating. The Mayor replied that this was in progress and will be presented on Student Government Day. Mr. Margalis informed council that Student Government Day will be held at the Community Center.

Moved by Mr. Margalis seconded by Ms. Luther that the council meeting of April 27<sup>th</sup> be held at the Community Center which will be Student Government Day at 7:00 p.m.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja  
No: None

Motion carried.

Moved by Mr. Krych seconded by Ms. Koski that council recess into executive session to discuss personnel.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja  
No: None

Motion carried. Council recessed into executive session at 8:15 p.m.

Council reconvened from executive session at 8:55 p.m.

PRESENT: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja

There being no further business, it was moved by Ms. Luther seconded by Mr. Margalis that the council meeting of March 23, 2009 be adjourned.

ROLL CALL: Yes: Jaworski, Koski, Krych, Levar, Luther, Margalis, Matyja  
No: None

Motion carried. Meeting adjourned at 7:55 p.m.

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Council Clerk

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Council President and  
Presiding Officer