

WICKLIFFE CITY COUNCIL
SPECIAL COUNCIL MEETING - June 30, 2008

A special meeting of the Council of the City of Wickliffe was called to order on Monday, June 30, 2008 at 6:30 p.m. by Council President William Margalis. Upon roll call, the following were present:

MAYOR: Thomas Ruffner
LAW DIRECTOR: Bill Gargiulo
COUNCIL PRESIDENT: William Margalis
COUNCIL: Jaworski, Koski, Krych, Levar, Luther, Matyja
Krych, excused
BUILDING COMMISSIONER: Raymond F. Sack

Mr. Margalis read the notice of the special meeting.

Authorize Mayor to obtain RFQ's for Realtor/Broker services for the Sale of the Green Ridge House - The Mayor reported that he will look for some assistance for the sale of this house if needed. This is as a result of not being able to get any offers on that property and the intent was to hire a broker/realtor to help us market this property.

Moved by Mr. Levar seconded by Ms. Luther that council authorize the Mayor to obtain requests for qualifications for realtor/broker services for the sale of the Green Ridge house.

ROLL CALL: Ayes: Jaworski, Koski, Levar, Luther, Margalis, Matyja
Nays: None

Motion carried.

AUDIENCE PARTICIPATION OPENED

Owner of Wickliffe Ignition, 1516 E. 294 Street, asked what the reason was for this loan to be given to the LTV group which is a Chardon based company. He asked if any business owner would also be able to get a low interest and one and a half per cent or the same style loan that this developer is getting and asked if some businesses could be re-done with that or is this limited? Mr. Margalis explained that this is a tool that we recently learned about last year, this is an economic development tool that is available for municipalities to utilize if there are funds available and if there is a public purpose, this is the reason for doing it. This is the first time the city has entered into this. This situation is because of the blighted situation in the 30 years of that property sitting the way it has without any movement. He explained the CRA loans that are available to residents for the purpose of vacant property that this person referred to but that is not in the same condition as the Ponderosa property but left vacant for a long time it may be in the same position. CRA loans are available for improvements of properties and additional tax values would be abated for a certain amount of time. There is also a low interest loan option that is available for vacant property. Mr. Margalis said that if there were another blighted property on the avenue he would certainly consider doing the same thing.

Robert Gregor, Attorney, E. 300 and Euclid Avenue, stated that if these benefits are available for properties that are not in good condition, is this correct? Mr. Margalis replied that this is the purpose. Mr. Gregor added that if his building is in blighted condition could he also get a loan. Again, Mr. Margalis explained about the tool that governments have used to help situations like this. Mr. Gregor explained how he has kept up his building with no help from the city. There are improvements that have to be made. He asked about the paperwork to be filled out to apply for one of these loans. Mr. Margalis explained that the Finance Director or the Mayor would be the person to contact. Mr. Laver has all the information required for this. Mr. Margalis further added that there has been a purchase agreement but no contract has been signed and no transfer of title.

Mr. Gregor asked about any contingencies with this loan. Mr. Gargiulo answered that there are financial conditions in this transaction. The contract contains a purchase price that he believes includes the \$300,000 in the purchase price. Ms. Koski added that this money is not free and clear, he has certain things to do in order for the loan to be forgiven. He has to demolish the building, prepare the site for development, he can't just take the money and have the property sit. He has a responsibility to fill. Mr. Gregor asked for the chronological sequence to the loan and contract and how it developed.

Mr. Margalis added that the developer knew that the city was ready to participate in this project before he signed the contract. He was told this by the Economic Development Director, the Mayor and the Building Commissioner and other developers. The Mayor interjected that Osborne and Lorreto who are building Mapledale were also informed.

Mr. Levar requested that he be allowed to direct a question to the audience. He asked the audience for a support of hands as to how many are in favor of this project going forward which would mean that the Ponderosa property and the other properties would be in favor of this loan or would you rather have the building the way it is. The audience did not feel this is a fair question. Mr. Gregor asked how many people here would like to use their money to help this developer tear down this building and make it a successful venture for himself. It was noted that nobody raised their hand.

A question was raised as to the Denny's property and if this could also be cited as a blighted property. Mr. Margalis said that there is a possibility that could also be done there.

Marie Silvestro, 1679 Empire Road, is concerned that this is very unfair. There are many bad buildings on Euclid Avenue killing the city. When someone comes into Wickliffe and they see a dead hotel, a dead Denny's, and if something is not done it will get worse. Why not put forth a contest to the residents to come forth with a creative idea for using the property along Euclid Avenue. There are many government funds available and no one is trying to get them.

Jim Penjak, 29815 Phillips Avenue, said that his back yard faces the new senior center. He complained about the lights being on 24/7 for the past five or six months, these should be synchronized so they will not be on during the day. He also said he understood there was not enough money to finish the senior center. Mr. Margalis informed him that all the equipment for the center is on order and will be here in a couple of weeks and this money came from the Council on Aging through a grant. Mr. Penjak asked

about the loan and also about Jane Campbell. Mr. Margalis answered that this was a tool that was used by the City of Cleveland and has been used for many years to get rid of blighted property and encourage development.

Mr. Margalis explained the procedure, this is a loan agreement. The terms and conditions of this loan are that the developer must pay back the city within 18 months. Within this 18 month period if he does three different portions the city will forgive \$100,000 each of the loan. Step one is as soon as he demolishes all the buildings on that property the city will forgive \$100,000, that means he only owes the city \$200,000, if he does nothing else on the property he has to pay us back \$200,000 within the 18 months. If he completes step two which is the development of the commercial property on Euclid Avenue when he brings the plans forward gets them approved through the City Planning Commission and when he finishes that he will have the second part of that and he can apply and get the second \$100,000 forgiven of that amount. Now if he does nothing else on the property he still owes us \$100,000 which must be paid within the 18 months. When he completes the third step which is the plans and the development of the condominium units on that property, gets the plans approved and all conditions are met and the development is started there, he can have the third \$100,000 forgiven. This is how the loan is set up. As an elected official and everyone at this table has heard for years what is the city going to do with the Ponderosa property. Many legal fees have been spent on this property.

Mr. Penjak then asked about the sound barrier and the senior center. He referred to the Lubrizol property and how well it's being maintained. He questioned the mulch at the center and asked if a sprinkler system will be installed. Mr. Margalis informed him that at some time in the future there may be a sprinkler system around the building itself.

Mr. Matyja interjected that plans and development of property have been referred to and he does not think development is part of the forgiven loan issue, it's just the site plans.

Ms. Koski referred to the various vacant properties on Euclid Avenue and stated that she has called many retail establishments for years trying to court them to come into our town and I have been told that our demographics are not appealing to them. She referred to the audience and remarked that not one person here is a younger person and retailers say they will not come because they want young families and need a growing population which they need for their businesses.

Don Marn, 29105 Ridge Road, remarked that what he has learned around town is heresy and this is why he is here to find the truth. He asked if all this business was conducted in public session. Mr. Margalis answered that there has been some discussion on this issue in executive session. Mr. Marn asked why this council has done nothing to incentivize this purchase to which Mr. Margalis answered he was not aware of this incentive. Mr. Marn feels it is wrong for this money to come from the Capital Improvement Fund.

Mr. Margalis said he asked the Law Director of the legality of using capital improvement funds for this type of purchase and he did render a legal opinion to this council. The Law Director replied that he has talked to the State Auditor about this procedure and they suggested that that procedure is perfectly fine and that we would "pass" an audit when that time comes. He has also researched this legally and it can be done legally so there is no problem.

Mr. Insana, 2693 Cabin Drive, also questioned the \$300,000 loan and asked if some other developer could have come forward. Mr. Margalis informed him that the realtor and the owner knew of this incentive. This is the first developer that actually came forward with money to purchase this property and he wants to get this project moving.

Mr. Matyja remarked that there was nothing on the economic development web site, there was no program or no application, and there is no businessman in this city that he has talked to that knew the city was in the forgivable loan situation. A promise was given in executive session which is totally against this. The intent of this charter was money for infrastructure of city property not to a private developer and that is why he disagrees with the Law Director. We should be able to question each other and bring this out openly and honestly. No one in this city that knew the city was giving away money, including himself until an executive session was held.

Lee Jacopin, 1843 E. 300 Street, questioned the dates of the executive sessions that were held regarding this. He asked what the motion was to hold an executive session. Mr. Margalis stated that the purpose of an executive session is always mentioned in the minutes and this was on the purchase of property in general. Mr. Jackopin said he is opposed to using this capital improvement fund money for a private developer and asked what is the public purpose. Mr. Margalis replied that it is his opinion it's for economic development of a property on Euclid Avenue which has been blighted by the city. Mr. Jacopin questioned the loan agreement to which the Law Director informed him that every councilman received a copy of all the papers necessary for this to happen one of which is the loan agreement. The other is a promissory note and the third item is a mortgage deed back to the city to secure that promissory note. Mr. Sack explained the procedure to start the project and the continuation of the development. Mr. Margalis further commented on the three economic tools in place for businesses to succeed in this city.

Mr. Jacopin questioned the emergency clause on this ordinance. Mr. Margalis replied that this ordinance will be on the agenda for three readings. This is the second reading.

Mayor Ruffner said he would like to clarify things. He understands the viewpoints and it makes some sense so we should come up with something that we can all agree to. He explained how this developed, behind the scenes developers are always interested in purchasing property but developers never really want everyone else to know what their business is so when they come to us they are saying on the "qt" what do you know about this property. Part of the reason there is not this outward advertising is two reasons, one is the other builders don't want to know what the other one's competition is and they ask us if we do talk about this to keep it between us in a private meeting which is perfectly fine. The second point is if a developer wanted to buy that property we didn't have to offer the \$300,000, we didn't want to advertise it so that whoever bought it just got it, he was hoping someone

would buy it and take it away. We have been to court with the Vitantonio owners three separate times and we lost, we won, it was appealed and we lost, we took them to court again, they promised to build a development and we took it out of court, the development did not happen, we took them back to court and most recently we took them to criminal court which our understanding was that when you take somebody to criminal court the court has to declare a verdict within a year on any nuisance ordinance that we have had that has dragged on in the courts. We have tried to rent that property, we have worked with the owner at least four years. We have tried to work with the owner to rent that property or sell it and we were thrown out of their office. The owner finally capitulated that he would sell the property after five years so the city had the option to buy it, he was willing to sell it. The Mayor further said that it was his idea to present to council if there is one thing this council can do to get rid of that property today, one way was to buy the property land bank it, raze the buildings and put it back on the market. He stated that in his opinion the majority of council was not for that because they didn't want to have the tax payers money tied up in property that maybe doesn't sell, his proposal was what the cost to raze that property was between \$300,000 and \$400,000, that's where the \$300,000 came from. The cost to get rid of that blighted property, that was his number one goal. The criminal case came up and the attorney for the Vitantonios was asked if he had a contract to sell this property. That ended the criminal case. The court agreed. The idea was how to get rid of those buildings now.

Our former development coordinator, Jane Campbell, said that in the City of Cleveland and other major cities when property does not move for a long time there is another tool which we were not familiar with. Maybe we should have been advertising but at the time it came up there were four developers that wanted it. Somehow four became one, they dropped out. The question is we can let this go, take it back to court for another year or two or we have a developer at the table, we gave him the number. He did not ask for any money. This council said if we could find a developer that can come to us with a signed contract we would offer him the money and we agreed with what that person would build and do for this city we would consider a \$300,000 forgivable loan so that action would happen now. This is a big project that takes a lot of money. He said he understands the Law Director's position which he has researched legally. There is concern about how this is being handled. If that means we should make it more public we can or this council could still vote to give the \$300,000. Other businesses will not come here to build on Euclid Avenue because of this one particular site. That's the problem. We were only trying to expedite it.

Mr. Matyja again expressed his opinion that this is not legal, one that it should have been advertised and two that this is a violation of the Sunshine law. The Mayor stated that if there is any cloud of suspicion over this property he has no problem with taking another compromised look at this. The Law Director believes that the Charter refers to our Ordinance Chapter 107 and that tracks the Ohio Revised Code Section 121.22(g) which is exactly the same in our ordinance as in the ORC. He has researched that and this is not what happened and was not a violation of the Sunshine Law. The Mayor asked council to convene into a committee of the whole to discuss this further.

Robert Palmer, 1721 Douglas Road, does not question the integrity of this council. This just sets a bad precedent.

Bob Anzlovar, 29440 Oakwood Drive, commented that he attends every council meeting and has heard a lot talked about this property, he feels council should go ahead with this project. If we wait nothing will happen. Nothing will happen if we wait as it has been in the past. We are all familiar with Mr. Vitantonio and his property. Now that we have a chance to do something go ahead and do it.

Lawrence Coladangelo of Dominic's Café, next door to the Ponderosa, questioned the problem of the building being demolished and how will the pests and rodents be handled. Mr. Sack informed him that the developer has safety guards in place for this. Mrs. Coladangelo added to her husband's remarks.

Mr. Margalis said this man has treated this city shamefully. This is not an easy decision, he tries to watch city money carefully, but how long are we going to wait. We've gone through the courts for 20 years trying to get this property taken care of and have been unsuccessful and we are presently on appeal because the property has not changed hands yet. The forecast does not look brighter. This is an opportunity to make something happen to this property. It hurts him that this money is going to this person. He congratulates the developer for coming forward who has a vision of that property and what can happen there.

Don Marn, commented that there is a lot of tension about this, people are confused and concerned. It was mentioned before about the ages of the people in this room and he took offense to this. People who show up at these meetings care about what happens to their city. If we do things right young families will come. But young families are not invested in this community as we are, we have lived here for thirty or forty years and love Wickliffe. We want you to do the right thing on our behalf. Mr. Margalis replied that we are all here for the same goals.

Lee Jackopin, feels that this was a bad decision for the city to be tied up in this purchase agreement. He questioned the zoning of the property and the purpose of executive session.

Mr. Jaworski commented on the remarks made during this meeting. He pointed out that looking at the ordinance it does not specifically say that the intention of the forgivable loan is for blighted property. That may need to be changed if council decides so. We met in executive session where it was brought up that the \$300,000 was talked about. That was wrong. Another point was that the forgivable loan was based on three things, one demolition and two and three site preparation and the money coming from the capital improvement fund. Mr. Margalis asked Mr. Jaworski if he would be inclined to spend any city funds for this type of development. Mr. Jaworski said no.

Resident, 1679 Empire, commended the city for doing something with this property, the business owners are only mad about the forgivable loan.

Mr. Matyja feels that this is a matter for the Attorney General and he has told the other council members that if this goes through the ordinance should be null and void and he would go to the Ohio Ethics Commission and the Attorney General for their opinion. He feels the Law Director was wrong in his interpretation and does not agree with him.

AUDIENCE PARTICIPATION CLOSED

ORDINANCES

ORDINANCE NO. 2008-47 AN ORDINANCE PROVIDING FOR THE COMPENSATION OF ELECTED OFFICIALS OF THE CITY OF WICKLIFFE, OHIO AND REPEALING ANY AND ALL OTHER ORDINANCES OR PARTS THEREOF THAT MAY BE INCONSISTENT WITH THIS ORDINANCE. Read by title. THIRD READING

Moved by Mr. Margalis seconded by Ms. Luther that Ordinance No. 2008-47 be adopted as presented.

ROLL CALL: Ayes: Jaworski, Koski, Levar, Luther, Margalis, Matyja
Nays: None

Motion carried. Ordinance No. 2008-47 adopted.

ORDINANCE NO. 2008-57 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF WICKLIFFE, OHIO TO ENTER INTO A CONTRACT WITH LTV GROUP, INC. (AN OHIO CORPORATION), AND MILESTONE BUILDING COMPANY (AN OHIO CORPORATION) TO PROVIDE ECONOMIC DEVELOPMENT ASSISTANCE TO PARTIALLY FINANCE THE COSTS ASSOCIATED WITH THE REDEVELOPMENT OF BLIGHTED PROPERTY ADDRESSED AS 29559 EUCLID AVENUE; 29555 EUCLID AVENUE; 29707 EUCLID AVENUE; AND 29553 EUCLID AVENUE IN WICKLIFFE, OHIO, AND DECLARING AN EMERGENCY. Read by title. SECOND READING.

Ordinance No. 2008-57 placed on second reading.

ORDINANCE NO. 2008-59 AN ORDINANCE AMENDING CHAPTER 1303 PLANNING AND ZONING CODE - ADMINISTRATION, OF THE CODIFIED ORDINANCES OF THE CITY OF WICKLIFFE, OHIO, AND DECLARING AN EMERGENCY. Read by title. SECOND READING.

Ordinance No. 2008-59 placed on second reading.

Mr. Margalis scheduled another special council meeting for Tuesday, July 8th at 6:00 p.m. Items on the agenda will be forthcoming.

There being no further business, it was moved by Mr. Krych seconded by Ms. Koski that the special council meeting of June 30, 2008 be adjourned.

ROLL CALL: Ayes: Koski, Krych, Levar, Luther, Margalis, Matyja
Nays: None

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

Clerk of Council

Council President and
Presiding Officer