

WICKLIFFE CITY COUNCIL MEETING
June 9, 2008 - 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, June 9, 2008. The following were present at roll call:

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

APPROVAL OF MINUTES:

Moved by Mr. Krych seconded by Ms. Luther that the minutes of the council meeting of May 19, 2008 be approved as presented.

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

Motion carried.

REPORTS AND COMMUNICATIONS FROM MAYOR/SAFETY DIRECTOR - Mayor Ruffner referred to a memo regarding the Lake County radio system, which is an ongoing process. He also stated that the standard 4th of July activities will be held. He reported further that two family nights are being introduced during the summer by the Recreation Department which Mr. Stopp will explain.

REPORTS AND COMMUNICATIONS FROM LAW DIRECTOR - Mr. Gargiulo reported on one item where the Ohio Supreme Court on May 21st rejected the jurisdiction in the Martha Foster vs Wickliffe case which was good, and then ten days later he received a Motion for Reconsideration of the Appellants as to the principal propositions of law. He also reported that on behalf of the City, he has filed a Memorandum opposing the Appellant's Motion for Reconsideration.

COMMUNICATIONS FROM COUNCIL PRESIDENT - Mr. Margalis referred to a letter from Richard Cordray, Ohio Treasurer of State, asking council to pass a resolution in support of three federal regulations that have to do with foreclosures and controlling of the mortgage banking industry, There are three regulators, the National Credit Union Administration, the Federal Reserve Board and the Office of Thrift Supervision, who will propose new rules that would ban detrimental practices associated with credit card accounts. Copies of this letter will be provided to council. He further requested the Law Director to prepare this resolution.

THERE WERE NO ADDITIONS OR AMENDMENTS TO THE AGENDA

ADMINISTRATORS:

A. Police Chief - Report attached. Chief Ice also reported that on Friday he attended the graduation ceremony of Brett Peoples who was recently hired, who came in first in the class of forty.

B. Fire Chief - Report attached. Chief Helsel excused

C. Finance Director - Monthly Financial Report attached. Mr. Germ reminded council that as discussed in the Finance Committee last week, there will be a tax hearing for 2009 on Monday, June 23 at 6:30 p.m. As always, the tax budget resolution will be on the agenda immediately following the hearing. He further stated that he received a report from the County Auditors with the information regarding special assessment delinquencies and he will provide council with a memo. Mr. Margalis asked about certifying assessments and asked if there is a list to which Mr. Germ replied they will be ready for the next meeting.

Mayor Ruffner informed council that Mr. Germ will be off for four to six weeks and Mr. Unetic will be available when needed.

Engineer - Report attached. Mr. Formica gave a construction report on the Coulby Pond work, the Senior Center site punch list is being worked on, the 2008 road program began today on Twin Lakes Drive and the Rockefeller Road project is about 90% complete. Mr. Krych referred to the punch list at the Senior Center and asked Mr. Formica to look into the roof and the gutters there. Mr. Margalis also reported about a spot in the parking lot that always seems to be wet and asked Mr. Formica to check into this. He also referred to the restrooms at the center and asked why these were locked in the evening. Mr. Paschke responded to this.

E. Service Director - Mr. Paschke had nothing to add to his report which is attached.

F. Building Commissioner - Report attached. Mr. Sack explained the work to be done at the Ridgewick condos parking lot. The placement of the bins were also discussed and Mr. Sack will look into this.

G. Recreation Director - Report attached. Mr. Stopp explained the family fun nights program proposed for this summer, these will be held on July 11 and August 8 there will be movies in the park, these will be on Friday nights. He explained the program and further reported on the recreation program in progress and also updated council on the Lights After School program. Upon a question from Mr. Jaworski, Mr. Stopp stated that there has been a lot of rain but we are down about 500 rounds of golf at Green Ridge Golf Course.

H. Economic Development Coordinator - Mr. Laver excused.

AUDIENCE PARTICIPATION OPENED

Mr. Bendar, 30540 Euclid Avenue, Clark Gas Station proprietor, who informed council of the renovation of the station which he has not performed because he shut down the station for a year but now he is in the process of cleaning up the station and he is working with the contractor to keep the place clean before working on the renovation which will be started soon.

AUDIENCE PARTICIPATION CLOSEDCOMMITTEE REPORTS

Mr. Margalis read the report of the Finance Committee meeting held on May 21st which is attached.

Moved by Mr. Margalis seconded by Ms. Luther that the Law Director and the Mayor be authorized to prepare the RFP's for selecting an architect for the new service garage.

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

Motion carried.

Mr. Margalis then read the report of the Finance Committee meeting held on June 4th which is also attached.

Ms. Luther read the report of the Legislation and Welfare Committee meeting held on June 4th which is attached. She called a committee meeting after this meeting to discuss the CRA recommendations.

Mr. Levar read the report of the Economic Development Committee meeting held on June 4th which is attached.

Mr. Matyja read the report of the Utilities Committee meeting held on May 21st which is attached.

Mr. Jaworski informed council that the Parks and Recreation Commission will be holding their annual park tour on Thursday at 6:00 p.m. and the tour will start from city hall.

COMMISSION REPORTS

Mr. Levar read the report of the Board of Zoning Appeals meeting held on May 22nd which is attached.

THERE WAS NO OLD BUSINESS

NEW BUSINESS

a) Bid Opening - Provision and installation of Category 6 Plenum-rated network cabling on city property - Chief Ice reviewed the bids which were received and are attached. He recommends the bid of Teleco of Cleveland in the amount of \$22,727.16 because of the quality of components, their warranty and the submittal of complete fulfillment of the bid specifications. Mr. Margalis pointed out that the recommendation not for the lowest bidder but actually the second highest bidder, the question is did we not spec out what grade of cabling to use in this? This project is just a labor and material project. Chief Ice said that the bid this contractor wrote out did not specify the type of cabling to be used. This question was referred to the Law Director.

Mr. Gargiulo interjected that the bid specifications should be re-written so that everybody is bidding for the same thing. If an item is not in the specification and the bidder bids with what he saw there then he has a legitimate complaint as to why he was not chosen and to err on the side of being conservative, he would say that the bid should be removed.

Mr. Matyja questioned the project of construction of the service garage why would we want to wire to a different administrative building. The Mayor replied that we need the security now we can't wait for years to not have the Service Department in the network. Mr. Margalis explained that the server is in the Police Department and we are hooking up the city hall to the police department. When the service department gets moved then we will want to hook up the service department to the same server at the police department so we have the same security. After a lengthy discussion, the recommendation was to reject all the bids and re-bid.

Moved by Mr. Margalis seconded by Mr. Jaworski regarding the bids for the provision and installation of Category 6 Plenum-Rated Network Cabling on city of Wickliffe property, that all the bids be rejected and a re-bid be authorized with clarified specifications.

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

Motion carried.

ORDINANCES

ORDINANCE NO. 2008-39 AN ORDINANCE AMENDING CHAPTER 517 GAMBLING OF THE CODIFIED ORDINANCES OF THE CITY OF WICKLIFFE, BY ADDING SECTION 517.16 GAME OF CHANCE PERMIT, AND DECLARING AN EMERGENCY. Read by title. THIRD READING.

Moved by Mr. Krych seconded by Mr. Margalis that Ordinance No. 2008-39 be adopted as presented.

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

Motion carried. Ordinance No. 2008-39 adopted.

ORDINANCE NO. 2008-43 AN ORDINANCE ADOPTING CHAPTER 1118 OF THE CODIFIED ORDINANCES OF THE CITY OF WICKLIFFE, OHIO, ENTITLED ILLICIT DISCHARGE AND ILLEGAL CONNECTION CONTROL. Read by title. THIRD READING.

Moved by Ms. Luther seconded by Mr. Jaworski that Ordinance No. 2008-43 be adopted as presented.

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

Motion carried. Ordinance No. 2008-43 adopted.

ORDINANCE NO. 2008-44 AN ORDINANCE AUTHORIZING THE CHIEF OF POLICE OF THE CITY OF WICKLIFFE, OHIO TO DISPOSE OF UNNEEDED AND UNFIT PERSONAL PROPERTY, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Krych seconded by Ms. Luther that the rules of council be suspended and that Ordinance No. 2008-44 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Margalis seconded by Ms. Koski that Ordinance No. 2008-44 be adopted as presented.

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

Motion carried. Ordinance No. 2008-44 adopted.

ORDINANCE NO. 2008-45 AN ORDINANCE AUTHORIZING THE PURCHASE OF ONE (1) NEW "PLAYBOOSTER" PLAYGROUND ADDITION FOR COULBY PARK, THROUGH THE U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Levar seconded by Mr. Jaworski that the rules of council be suspended and that Ordinance No. 2008-45 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Levar seconded by Mr. Krych that Ordinance No. 2008-45 be adopted as presented.

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

Motion carried. Ordinance No. 2008-45 adopted.

ORDINANCE NO. 2008-46 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.

Moved by Mr. Margalis seconded by Mr. Levar that the rules of council be suspended and that Ordinance No. 2008-46 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Krych seconded by Ms. Luther that Ordinance No. 2008-46 be adopted as presented.

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

Motion carried. Ordinance No. 2008-46 adopted.

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.

Ordinance No. 2008-47 placed on first reading.

ORDINANCE NO. 2008-48 AN ORDINANCE PROVIDING FOR THE COMPENSATION OF FINANCE CONSULTANT FOR THE CITY OF WICKLIFFE, OHIO, REPEALING ANY AND ALL OTHER ORDINANCES OR PARTS THEREOF THAT MAY BE INCONSISTENT WITH THIS ORDINANCE, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Margalis seconded by Ms. Luther that the rules of council be suspended and that Ordinance No. 2008-48 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Margalis seconded by Ms. Luther that Ordinance No. 2008-48 be adopted as presented.

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

Motion carried. Ordinance No. 2008-48 adopted.

ORDINANCE NO. 2008-49 AN ORDINANCE ESTABLISHING A MEMORANDUM OF UNDERSTANDING OF EMPLOYMENT PROVISIONS AND PROVIDING FOR THE COMPENSATION OF CITY OF WICKLIFFE PART-TIME FIREFIGHTERS, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Levar seconded by Mr. Jaworski that the rules of council be suspended and that Ordinance No. 2008-49 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Margalis seconded by Mr. Jaworski that Ordinance No. 2008-49 be adopted as presented.

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

Motion carried. Ordinance No. 2008-49 adopted.

ORDINANCE NO. 2008-50 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 29553 EUCLID AVENUE; 29559 EUCLID AVENUE; 29555 EUCLID AVENUE; AND 29707 EUCLID AVENUE IN WICKLIFFE, OHIO, AND DECLARING AN EMERGENCY. Read by title.

Moved by Ms. Luther seconded by Mr. Krych that the rules of council be suspended and that Ordinance No. 2008-50 be placed on third and final reading.

Mr. Matyja agrees that council wants to help economic development and he has no problem with that but he has some major issues on this ordinance, he does not think it is correct and also there may be some violations of possibly state law in this and this should be discussed further before we try to give a \$300,000 loan. How can you give money away from a capital improvement fund to a private developer instead of using it for the city. The Law Director deferred to the finance department as far as the general fund is concerned, we can certainly do it but he did not know specifically which fund it should come out of. Mr. Germ interjected that the money was set aside during budget talks for this purpose, capital improvement is to improve the appearance of Euclid Avenue. Mr. Germ agreed that what Mr. Matyja is saying could be debated. He understood this to be a legal transaction. If it is felt that the fund is not correct we can get further clarification from the State Auditor's office on that.

Mr. Matyja further stated for the record that this transaction we are discussing the city has no part in, it is a private developer buying from a private parcel owner in this city and now we are going to give him a \$300,000 loan, he does not believe it should come from the capital improvement fund, it should come from the general fund. Also, Section 8 was never discussed in an open meeting, it was discussed in executive session and has never been brought before council, there have not been any notes or minutes from either the council of the whole, and there has never been a public hearing. He feels this is in violation of the Ohio Revised Code and a violation of the Sunshine Law.

The Law Director explained that this is discussed now so it is not an issue for the Sunshine Law, the constitutional aspect of this was reviewed in a memo that was distributed to council concerning the issue when this loan concept came up. He has documentation that are all part and parcel of this ordinance to make the full circle to the recorded mortgage deed for council to look at and study. The key instrument is the loan agreement which everybody was provided with a copy. The package with the ordinance was the agreement to lend.

Mr. Matyja replied this is not his issue, this was never discussed at a public hearing, the only discussion he knew about was during executive session. The ordinance states that this was discussed at public hearings and it was not. Mr. Gargiulo said this is a verifiable fact and if that is a fact he agrees. The document itself says that it was discussed, Mr. Matyja agreed and Mr. Gargiulo replied that if it was not discussed then you are right. Mr. Matyja clarified that he does not see a legal transaction nor the council or city involved in any legal lawsuit, we had no say so in the sale of this piece of property. This is a very bad ordinance.

Mr. Margalis agrees that the way this ordinance is written there is some wording in it that needs to be changed, to clarify what we are doing is a legal action under the Ohio Revised Code, we have never done it before, this is an economic development tool that we learned about last year that has been used in other communities that's why we considered it when we talked about this piece of property on Euclid Avenue. So the action we are taking, he believes, is a legal action that council can do. We questioned this from the start and the research was done by the Law Director and it was verified that we can do this. As to where the money comes from, that is another question. The question of minutes from a committee meeting were discussed but since this was in an executive session there are no minutes and there are no decisions made in executive session.

Mr. Matyja questioned when is the loaning out of forgiveable loans a topic for executive session. Mr. Margalis explained that this is under the purchase of real estate. There was an offer for us at one time to purchase this. Mr. Matyja agreed but not this topic. Mr. Margalis said he is not opposed to talking about this in public. The Mayor requested a Finance Committee meeting for Monday, June 16th and also have a public hearing. Mr. Margalis agreed. Now the decision will be made in public. He suggested that this suspension be withdrawn and place this ordinance on first reading and put it into the Finance Committee and meet next Monday in a public setting. Adjustments have to be made to this ordinance.

Mr. Jaworski's opinion is to vote this ordinance down and have a new one written for the next council meeting. He agrees with Mr. Matyja. The Law Director said he would provide all of council a copy of all the paper that goes along with this so if there are any questions at the Finance Committee meeting they can be covered. Mr. Margalis said we do need to suspend the rules and then vote it down. Mr. Matyja added that this concept cannot go on. It's a bad policy to give away city money to a private developer on a private development, this has not been done in the past.

The roll call on the suspension of the ordinance was then held.

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

Motion carried.

Moved by Mr. Margalis seconded by Ms. Luther that Ordinance No. 2008-50 be adopted as presented.

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

Motion defeated. Ordinance No. 2008-50 defeated.

Mr. Margalis called a Finance Committee meeting for Monday, June 16th at 7:00 p.m. to discuss this agreement with LTV.

ORDINANCE NO. 2008-51 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF WICKLIFFE, OHIO TO ENTER INTO A CONTRACT WITH GUARDIAN LIFE INSURANCE COMPANY FOR THE PROVISION OF DENTAL BENEFITS COVERAGE FOR CERTAIN EMPLOYEES OF THE CITY, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Levar seconded by Mr. Krych that the rules of council be suspended and that Ordinance No. 2008-51 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Jaworski seconded by Ms. Luther that Ordinance No. 2008-51 be adopted as presented.

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

Motion carried. Ordinance No. 2008-51 adopted.

ORDINANCE NO. 2008-52 AN ORDINANCE AUTHORIZING THE PURCHASE OF EXERCISE AND FITNESS EQUIPMENT THROUGH THE OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES, GENERAL SERVICES DIVISION, FOR USE AT THE CITY OF WICKLIFFE COMMUNITY/SENIOR CENTER, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Levar seconded by Mr. Krych that the rules of council be suspended and that Ordinance No. 2008-52 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Jaworski seconded by Ms. Luther that Ordinance No. 2008-52 be adopted as presented.

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

Motion carried. Ordinance No. 2008-52 adopted.

ORDINANCE NO. 2008-53 AN ORDINANCE PROVIDING FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF WICKLIFFE FOR THE PERIOD BEGINNING JANUARY 1, 2008 AND ENDING DECEMBER 31, 2008, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Krych seconded by Mr. Margalis that the rules of council be suspended and that Ordinance No. 2008-53 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Margalis seconded by Ms. Luther that Ordinance No. 2008-53 be adopted as presented.

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

Motion carried. Ordinance No. 2008-53 adopted.

There being no further business, it was moved by Mr. Margalis seconded by Ms. Luther that the council meeting of June 9, 2008 be adjourned.

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

Motion carried. Meeting adjourned at 8:20 p.m.

Council Clerk

Council President and
Presiding Officer