

WICKLIFFE CITY COUNCIL MEETING
September 14, 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, September 14, 2009. 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, excused
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:	James C. Powers
ECONOMIC DEVELOPMENT:	Jason Laver

APPROVAL OF MINUTES:

Moved by Ms. Luther seconded by Mr. Krych that Councilmen Levar and Matyja be excused from voting on approval of the council meeting minutes of June 22, 2009.

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

Motion carried.

Moved by Mr. Krych seconded by Ms. Luther that the minutes of the council meeting of June 22, 2009 be approved as presented.

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

Motion carried.

Moved by Ms. Luther seconded by Mr. Krych that the minutes of the special council meeting of July 20, 2009 be approved as presented.

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

Motion carried.

Moved by Mr. Jaworski seconded by Ms. Koski that Mr. Matyja be excused from voting on approval of the minutes of the special council meeting held on August 31, 2009.

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

Motion carried.

Moved by Mr. Jaworski seconded by Ms. Luther that the minutes of the special council meeting of August 31, 2009 be approved as presented.

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

Motion carried.

REPORTS AND COMMUNICATIONS FROM MAYOR/SAFETY DIRECTOR - Mayor Ruffner officiated over the swearing in of Lt. Joseph M. Matteo and Sgt. Manus P. McCaffery to the Police Department.

The Mayor requested the following items be placed into committee: the Wickliffe Reserve Town Center proposal on September 21st; the grass and weed cutting behind Truman and Homewood Avenues, this was placed into the SERVICE AND SPECIAL EQUIPMENT COMMITTEE; also to add to the hours of putting out trash, this was placed into the LEGISLATION AND WELFARE COMMITTEE.

REPORTS AND COMMUNICATIONS FROM LAW DIRECTOR - Mr. Gargiulo reported on the following items: On the agenda tonight is Ordinance No. 2009-48 which is deemed an emergency and he will provide any extra information as to why the Finance Department is recommending that this pass. He reported that he had a conference approximately a month ago with Donna's Curbside Catering and the purpose of that conference was twofold, one to terminate her contract at the end of this year so that we can re-evaluate the service provided the concession stand and to give her a break that her last payment be waived for the reason that she took a loss because the swim club brought in professional caterers for their swim meet. We can re-evaluate the services provided by the concession stand and to waive her final payment of \$800.00 for the reason that she purchased a lot of food with the idea she would make more money and nothing sold. We can terminate that contract and re-evaluate it.

The other item council should be aware of is what he calls the Suede file, that hearing is tomorrow at 1:00 p.m. at the office of Job and Family Services in Painesville. He will attend and Chief Ice will also attend, along with Lt. Valko. We will present the evidence that we have to support Telse Yeshiva, All Saints School and Borrromeo as to why they should not get their liquor permit. He also received today a notice from the Police Department concerning negotiations for the new contract, he telephoned their attorney and indicated to him that we would be sending a letter out informing them that the city will not go forward with any negotiations until January 1st because of the upcoming elections.

He also reported that today he received a notice from the Recreation Department advising that the City was named as a creditor in the Abitibi Water Corporation who filed a Chapter 11 reorganization. We are a creditor for \$137.48 and a non-secured creditor and he recommends that the city let the bankruptcy follow its course.

COMMUNICATIONS FROM COUNCIL PRESIDENT - Mr. Margalis reported that the annual invoice was received from the National League of Cities in the amount of \$1,489.00 for membership in 2010. We will hold this since the membership starts December 1, 2009 until after the first of next year with the new council.

ADDITIONS OR AMENDMENTS TO THE AGENDA

Mr. Krych added item (a) under New Business: Small Business of Incubators at Provo House.

ADMINISTRATORS:

A. Police Chief - Chief Ice had nothing to add to his report which is attached.

B. Fire Chief - Report attached. Chief Powers advised council regarding the flu vaccinations which they will facilitate across the county if the need arises.

C. Finance Director - Financial report attached. Mr. Germ excused. Mr. Margalis advised that Mr. Germ provided council with a memo outlining Ordinances 2009-44, 45 and 46 that explains what these ordinances are about. He has also requested a Finance Committee meeting for Monday, September 21 to discuss some transfers in the budget that need to be made before the end of the year, these are typically done at the end of the year but the auditing procedures now require that we do not let accounts that are short have to be put into balance as soon as possible. Also the Service Director has a couple of items that will be placed into the Finance Committee after he gives his report. The meeting will be on September 21 at 8:00 p.m. After those items we will also discuss the Wickliffe Reserve proposals from the two developers.

D. Engineer - Report attached. Mr. Formica added that he was notified today by the Lake County Engineer's Office that final Ohio Public Works Commission applications are due on October first and the reason he is bringing this to council's attention is that part of this application also includes some legislation authorizing the Mayor to apply for the funding. We have applied for two projects and we have scored well on the concrete road repair program where we applied for an \$88,000 grant, this is for the joint repair. Mr. Gargiulo will prepare the legislation. Mr. Formica also stated that he applied for the Worden Road improvements for a half million dollars and we are one point short on that.

Mr. Matyja commented regarding the number of punch list items left for Johnson, Cabin and Serenity, and stated that there are some problems there.

Mr. Formica then reported on the Kerry Lane Waterline Replacement and Pavement Resurfacing. During the waterline installation process on Emire Road, the existing waterline on the adjoining street and cul-de-sac (Kerry

Lane) has broken on two separate occasions. Upon the repair of these breaks, the condition of the existing pipe revealed the need to replace this line in the near future. We have discussed the possibility of including the replacement of the Kerry Lane Waterline with the Empire Road Project with Lake County Department of Utilities. The LCDU has agreed to this replacement need and is willing to participate in the funding of their share of the project. We have not officially discussed the proposed change order to the project with the Contractor (Fabrizi Construcion) as we wanted to first obtain council's and LCDU's opinion to proceed. Our estimate of the cost of this extra work based on the Contractor's bid prices totals approximately \$79,000. The City's share is nearly \$45,000 and LCDU's share is \$34,000.00. Mr. Margalis then stated that this brings up problems on Empire Road in which the residents are complaining about the contractor and the way the residents were notified of the apron replacement and repairs. They have done a very sloppy job. The completion date of that project is October 15th and all they have done is curbs and aprons which are not yet finished. There is still a lot of work to be done and we are also going to ask the same contractor to do Kerry Lane, is this reasonable that they will be able to do that this year.

Mr. Formica replied that the main reason for having this contractor do this work is that we are under contract with them and we won't be able to capitalize on some OPWC funding. In his discussions with the foreman and the contractor administrator in his office and basically the contractor did hand out notices to the residents. He also talked to Mr. Doherty today and he was upset because of the planning of the project. Mr. Kerniskey also added as to how some residents were notified and the people that called him were people that had special needs. Mr. Margalis asked if this will be done in four weeks to which Mr. Formica said he has notified the contractor and thinks it will. We bid on this contract on man days and right now he is behind schedule. Mr. Levar added that the street looks like a war zone. Discussion followed.

Mr. Matyja stated that this sounds like Cabin and Johnson where the inspector let the contractor deny the residents access to their driveways. The inspector should see that stone or some other hard item can be applied so that they can get into their driveways.

Mr. Jaworski asked for an update on Regent Road sewer project to which Mr. Kerniskey informed him that he will present something to council at the next council meeting, we are looking into some quotes to have dye tests done, we have over 65 homes that have not been dye tested in the last five years. In order to do these dye tests we will have to go probing, get easements, etc. Mr. Kerniskey will have a report for the next meeting regarding this.

E. Service Director - Report attached. Mr. Kerniskey thanked council and the Mayor for the new sweeper for the Service Department. He added to his report that they are moving forward on the Gateway Project, a quote has been received in the amount of \$10,266.00. Mr. Kerniskey also requested that the Finance Committee discuss the part time workers, this will be

discussed next Monday at the Finance Committee meeting. He also referred to a listing of vehicles and equipment that are no longer needed by the Service Department.

He also reported that Teleco of Cleveland is the company that has been doing our phone repairs. The Police Department updated their phones and their hard line phones with Teleco and he asked them for a quote to update City Hall, the Fire Department and the Service Garage hard line phones. Their quote came in at \$21,727.00 for new digital phones and that also includes a switching system that will allow us to cut back on the amount of AT&T phone lines coming in. He asked for permission to purchase these phones from Telecom of Cleveland. Mr. Margalis added that council can authorize the Mayor to make a purchase up to \$25,000 with approval of council. We did budget \$33,000.00 for this in the capital improvement fund so the money is there. It is also recommended that the surge protection kit for \$837.00 also be added making the combined price \$22,500.00.

Moved by Mr. Margalis seconded by Mr. Jaworski that council authorize the Mayor to purchase the upgrade of the phone system from Teleco of Cleveland, Inc. at their quoted price of \$21,727.00 and also the purchase of three lightning and surge protection kits for \$837.00.

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

Motion carried.

Mr. Krych referred to the monthly report and asked about the LED lights and asked which ones were completed. He asked Mr. Kerniskey to inform the Illuminating Co. that we have gone to digital so we can get a reduced rate to which Mr. Kerniskey replied that he did. Mr. Krych further referred to the computer security complaints and asked what the problems were. Mr. Keniskey reported on these. He also reported on the computers at the Senior Center.

Ms. Koski thanked Mr. Kerniskey for the solving of Mr. Montgomery's problems with the water problem in his basement. Mr. Kerniskey added that there was a sink hole under his driveway that nobody knew about.

F. Building Commissioner - Mr. Sack had nothing to add to his report which is attached.

G. Recreation Director - Report attached. Mr. Stopp reviewed the summer programs which were held and the success of the programs. He also stated that the pool passes were down from last year but the summer camp program was a success. Upon a question from Mr. Krych regarding pool chemicals, Mr. Stopp reported that the price of the chemicals went up sixty cents and the Health Department requested that we have a higher amount of chlorine in the pools.

H. Economic Development Coordinator - Mr. Laver reported that he has been talking to Mr. McPhee concerning the property at 1366 Rockefeller Road and still asked about due diligence and the retention of jobs as well as expansion and working with the city to amend our tax incentive grant. Mr. Gargiulo replied that this will be presented to the Finance Committee on September 21st. Our ordinance is very similar to ordinances of other cities it is the Exhibit "A" that is attached which expands it. Our 2005 ordinance will be kept and Exhibit "A" will be modified.

AUDIENCE PARTICIPATION OPENED

Mr. Don Hogan from the Illuminating Company introduced himself and informed council that he will be taking the place of Ann DiDonato.

Janet Jones, 28755 Alton Road, complained about the noise from the Evolution Ultra Lounge and how this can be resolved. Chief Ice responded to her comments. She was advised to keep calling the police.

Resident, 1530 E. 290 added that she has been cited for her dog barking and she sympathizes with Ms. Jones regarding the noise from this establishment.

AUDIENCE PARTICIPATION CLOSED

THERE WERE NO COMMITTEE REPORTS

THERE WERE NO COMMISSION REPORTS

Mr. Margalis reminded council that there will be a Finance Committee meeting on September 21 at 8:00 p.m.

THERE WAS NO OLD BUSINESS

NEW BUSINESS

a) Small Business Incubator at the Provo House - Mr. Krych informed council that the Provo House Guild met and the Chamber is looking to rent out at no cost to Small Business Incubator for a time period of not more than two years where an individual could use one of the smaller offices upstairs to start a business and then opt to share in the rent but basically with no rent. He asked this be placed into committee. Mr. Margalis placed this into the COMMITTEE OF THE WHOLE.

ORDINANCES

ORDINANCE NO. 2009-44 AN ORDINANCE LEVYING AN ASSESSMENT FOR UNPAID BILLS AND COST OF CUTTING NOXIOUS OR POISONOUS WEEDS, VINES, TREE LIMBS, OR GRASSES GROWING UPON PARCELS OF LAND IN THE CITY OF WICKLIFFE, OHIO AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Krych seconded by Ms. Koski that the rules of council be suspended and that Ordinance No. 2009-44 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Krych seconded by Ms. Luther that Ordinance No. 2009-44 be adopted as presented.

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

Motion carried. Ordinance No. 2009-44 adopted.

ORDINANCE NO. 2009-45 AN ORDINANCE LEVYING SPECIAL ASSESSMENTS IN THE AMOUNT OF THREE HUNDRED TWENTY-THREE THOUSAND THIRTY-TWO DOLLARS AND NINETY-NINE CENTS (\$323,032.99) FOR THE IMPROVEMENT OF STREETS WITHIN THE CITY OF WICKLIFFE, OHIO, BY SUPPLYING SAID STREETS WITH ELECTRIC STREET LIGHTING, 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. 2009-45 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Krych seconded by Ms. Koski that Ordinance No. 2009-45 be adopted as presented.

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

Motion carried. Ordinance No. 2009-45 adopted.

ORDINANCE NO. 2009-46 AN ORDINANCE LEVYING ASSESSMENTS FOR UNPAID DELINQUENT SEWER AMOUNTS UPON PARCELS OF LAND IN THE CITY OF WICKLIFFE, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Margalis seconded by Ms. Koski that the rules of council be suspended and that Ordinance No. 2009-46 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Krych seconded by Ms. Koski that Ordinance No. 2009-46 be adopted as presented.

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

Motion carried. Ordinance No. 2009-46 adopted.

ORDINANCE NO. 2009-47 AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF WICKLIFFE, OHIO, TO ENTER INTO A CONTRACT WITH INDUSTRIAL ENERGY SYSTEMS, INC. FOR THE POLICE STATION ROOF REPLACEMENT PROJECT, AND DECLARING AN EMERGENCY. Read by title.

Moved by Mr. Levar seconded by Ms. Luther that the rules of council be suspended and that Ordinance No. 2009-47 be placed on third and final reading.

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

Motion carried.

Moved by Mr. Krych seconded by Ms. Luther that Ordinance No. 2009-47 be adopted as presented.

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

Motion carried. Ordinance No. 2009-47 adopted.

ORDINANCE NO. 2009-48 AN ORDINANCE AMENDING CHAPTER 195-TRANSIENT GUEST TAX OF THE CODIFIED ORDINANCES OF THE CITY OF WICKLIFFE, BY AMENDING SECTION 195.10-ACTION TO COLLECT, AND DECLARING AN EMERGENCY. Read by title.

Mr. Gargiulo explained that this ordinance deals with delinquent amounts due for transient tax for sums that we certify to the Lake County Auditor for collection. The reason this is being introduced is that Mr. Germ and

he think some action has to be taken to collect these taxes from the three hotels in the city, some have not paid their transient taxes. One of these hotels will be sold and we can take the amount of transient taxes owed, go to the County Auditor and attach the property when it is sold then the escrow agent can give us the money owed, this is the way for collecting that taxes owed from the hotels. The transient tax is the tax that is charged to the guest and they are the escrow agent and they are supposed to give it to us and they have not been doing that.

Moved by Mr. Krych seconded by Ms. Luther that the rules of council be suspended and that Ordinance No. 2009-48 be placed on third and final reading.

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

Motion carried.

Moved by Ms. Luther seconded by Mr. Krych that Ordinance No. 2009-48 be adopted as presented.

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

Motion carried. Ordinance No. 2009-48 adopted.

Moved by Mr. Krych seconded by Ms. Luther 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 8:25 p.m.

Council reconvened from executive session at 9:20 p.m.

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

Moved by Mr. Krych seconded by Ms. Luther that the meeting of September 14, 2009 be adjourned.

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

Motion carried. Meeting adjourned at 9:20 p.m.

Council Clerk

Council President and
Presiding Officer