

WICKLIFFE CITY COUNCIL
SPECIAL COUNCIL MEETING - August 31, 2009

A special meeting of the Council of the City of Wickliffe was called to order on Monday, August 31, 2009 at 6:30 p.m. by Council President William Margalis. Upon roll call, the following were present:

MAYOR:	Thomas W. Ruffner
LAW DIRECTOR:	Bill Gargiulo
COUNCIL PRESIDENT;	William Margalis
COUNCIL:	Jaworski, Koski, Krych, Levar, Luther Matyja, excused
ENGINEER:	Pete Formica
FINANCE DIRECTOR:	Martin Germ
ACTING SVS. DIRECTOR:	Don Kerniskey
ECONOMIC DEVELOPMENT:	Jason Laver

ORDINANCE NO. 2009-34 - AN ORDINANCE CREATING CHAPTER 735-SALE OF VEHICLES OF THE CODIFIED ORDINANCES OF THE CITY OF WICKLIFFE, OHIO.
Read by Title. THIRD READING

Moved by Ms. Luther seconded by Mr. Krych that Ordinance No. 2009-34 be adopted as presented.

Mr. Levar asked for clarification of the ordinance and if this ordinance has to do with the sale of automobiles other than a dealership. Mr. Gargiulo explained that this ordinance is in regards to people who drive a car to a shopping center and place a for sale sign on it and leave it. This would stop people from taking a car and put it in a parking lot on Euclid Avenue and just leave it there. The person who owns the car and wants to sell it can put the for sale sign on it but it has to be in the person's driveway. You can sell a car but you have to do it on your property. The ordinance was recommended by Chief Ice and most of it is in the Ohio Revised Code. Mr. Margalis added that the key is for a casual sale other than a dealer.

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

Motion carried. Ordinance No. 2009-34 adopted.

Bid Acceptance - Police Station Roof Repair

Mr. Formica stated that this project was bid using two alternative types of roofing materials. Contract 1 specifies an EDPM membrane (rubber) roof and Contract 2 specifies an asphalt modified bituminous roof system. The base bid and alternates are for specific areas of the Police Station Roof and are the same for each contract. A sketch is included which defines the alternate areas. Bids were received for the referenced project on August 14, 2009. A copy of the bid tabulation outlines each bid for council's review.

The base bids for Contract 1 ranged from a low bid of \$76,000 to a high bid of \$126,800 as compared to the Opinion of Probable Construction Cost of \$70,000. The base bids for Contract 2 ranged from a low bid of \$100,000 to a high bid of \$101,000. The completion date for this project is November 13, 2009.

The low bidder for Contract 2 for this improvement is Industrial Energy Systems of Cleveland, Ohio, whose bid has been reviewed and found to be in conformance with all contract requirements. There is also a memo attached of the results of reference research regarding the contractor, as our previous experience with this company is limited. Considering this information, it is his opinion that they are experienced and qualified to perform the work within the contract.

Mr. Margalis asked of Mr. Germ if this was budgeted in capital improvement to which Mr. Germ replied that \$65,000 was budgeted based on the quote received. Mr. Krych inquired about a warranty on the roof to which Mr. Formica replied that there is a 15 year warranty for both Contract 1 and Contract 2. Mr. Krych asked if an estimate was obtained regarding the other two sections of the roof and what kind of life span they have left. Mr. Kerniskey reported on the condition of the remainder of the roof. Mr. Margalis asked Mr. Germ if we were to decide to do the base plus the two alternates, is there money available? Mr. Germ advised that from a cash standpoint there would be no problem, we have money set aside. There is enough money within the current budget also. Mr. Margalis asked if the whole roof was done, the completion date is November 13, 2009, would all this be paid this year? Mr. Germ agreed that it would be.

Mr. Formica advised council that he was billing for his time on this because it was under \$100,000 as an hourly thing if it goes over we will keep it as an hourly payment. Mr. Levar asked Mr. Formica under what conditions would they not work, to which Mr. Formica replied that it would depend on the weather. This is a six week project. Mr. Formica added that if the contract can be authorized tonight we can get the paper work started tomorrow and for them to start.

Mr. Krych inquired about the bonding, since we have a new 911 system should the bonding be increased because of all the equipment or loss of service if anything happens. Mr. Formica referred to the property damage as being two million dollars. Mr. Margalis added that his opinion is that there is money and we will not pay this whole bill off in 2009, it will be done in portions.

Mayor Ruffner stated that this could not be done any cheaper and we could have more damages later so it should be fixed all at once.

Moved by Mr. Margalis, seconded by Mr. Krych that council accept the bid from Industrial Energy Systems, Inc., 15828 Industrial Parkway, Cleveland, Ohio 44135, for the Police Station Roof Replacement Contract No. 1 with the base bid of Area A and also the alternates 1 and 2 which include Areas B, C, D and E, at a bid price of \$157,000.00 as being the lowest, most responsive and responsible bidder and that all other bids be rejected.

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

Motion carried.

Discussion - Community Reinvestment Area application and Tax Incentive grant application for business retention and expansion within the City

Mr. Laver spoke about an application from PPRO Clayton Road Properties, L.L.C. with whom he has been talking to for about a year. They have been thinking about relocating and expanding in Wickliffe where they have identified a potential building in which they are interested and which will meet their needs. Mr. McPhee has been offered some incentives from another community and he would like for council to understand the issues, one being the issue with the incentive program is that our tax incentive does not allow for retention of jobs within the community and this is a situation where we are kind of in a position where an outside community can offer an incentive that is of greater value than our incentive program allows us to do. This should be addressed because an application was filed for a CRA above the 50% of the improvements that you can add to a building, we have notified the school board of that application. The other thing to consider is to change the ordinance on the income tax incentive to allow for both retention and creation of new jobs. He referred to Mr. McPhee for more details.

Mr. McPhee stated that he has been in the city since 1981 on Clayton. This is a warehousing distribution business but we have outgrown the space. His desire is to stay in Wickliffe. The building they are looking at is at 1366 Rockefeller Road. The tenant presently there is planning on leaving and we have a potential contract. Mr. McPhee intends to bring in fifteen employees and the total size will be 98,000 square feet. All new office space has to be put into the west end of the building. The Mayor asked Mr. Gargiulo to explain what is acceptable by the State of Ohio and the difference between our ordinances. Mr. Gargiulo stated that Mr. Germ showed him Ordinance 2005-80 which allows for incentive based upon due tax revenues generated from new jobs, that phase for new jobs is repeated three times in this ordinance and it is very clear that Ordinance No. 2005-80 deals with new jobs only, we do not have an ordinance that says anything about retaining jobs. He looked at the Ohio Revised Code and a quick summary from Economic Incentive Credits reads that a municipality may grant against its tax on income to a tax payer that receives a credit under 122.17 and in 122.171, the credit is measured by a percentage of the income tax revenue derived from new employees of the tax payer in the case of 122.17 or from retained employees of the tax payer under 122.171, so within the Ohio Revised Code there is room for us to do that.

Mr. Gargiulo further referred to another section of the O.R.C., 718.15 entitled Credit for Businesses that Create New Jobs. That section of the O.R.C. was referenced in Ordinance No. 2005-80 from Senate Bill 363 which was passed in 1993. The next section to follow 718.15 is 718.151 which is a job retention credit against the income tax, so can we do this, yes we can. What do we have to do is, if council desires, we would have to create an ordinance that would cover both those parts of the Revised Code and that can be done if council desires but it should be on the books not only for this company but any other.

Mr. Margalis asked Mr. McPhee what would he anticipate would be new jobs coming into the city of Wickliffe as part of this. Mr. McPhee replied eight full time jobs within the next year. They presently have 23 full time jobs and 23 part time just in Wickliffe. Mr. Margalis commented that this is only a discussion and stated that when this ordinance was passed he was very comfortable with taking less income tax for new jobs created. He has a problem giving up income tax dollars that are coming into the city which we are presently getting because of the economic situation, perhaps other companies would come in and ask for the same. Mr. Gargiulo interjected that your decision could be based on whether or not you grant this. Mr. McPhee described his business and how they want to say in the city. Mr. Margalis commented on the regional income tax problem and how communities are affected. Mr. Krych also asked if there was a different percentage for the retained jobs vs the new jobs.

Mr. Laver commented that the big thing here is the investment. There is no grant if there is no level of investment by the company and what Mr. McPhee is proposing is that he will invest nearly two million dollars into a facility with the acquisition price and will improve it. If you look at our schedule that basically puts you into about a seven year tax abatement schedule. The minimum investment on that schedule is a half million dollars so 1) the company has to make a commitment financially to their location or in terms of signing a lease, and 2) the other thing is on the actual amount of abatement the most a company can get is 50% and that's if they create over a half million dollars a payroll. The minimum payroll is \$525,000 and what he is suggesting is with the eight new jobs created there will be \$240,000 of new payroll and that does not qualify for the minimum. So there would be no abatement if we add it together so we come up to nearly a half million dollars which puts us into the second tier which is basically 20% tax abatement if we were to combine retention and expansion. There would be no incentive grant whatsoever if we add everything together it would be 20% so that would be \$6,000 per year if we were to grant this. He would recommend that council basically stay under the same schedule and add retention to the job creation.

Mr. Margalis summarized that an application was filled out for the CRA but all of the information on the CRA would be basically used for the incentive grant. He suggested that this be placed into the Finance Committee and that the Law Director draft a revised ordinance that spells out these levels talked about with the minimums and when that is ready we will have another discussion in the Finance Committee. Mr. Margalis asked if the school board has anything to say about the 50% in the CRA to which Mr. Laver replied that if it is kept at 50% they do not have any say, the letter just puts them on notice.

The Mayor commented that overseeing of the issue both now and in the future businesses in the city that want to expand and especially going into new buildings different than where they are located, Mr. Gargiulo has found the right avenue for remaining competitive because if we are not that will be our downfall. When a business wants to expand in the city and buy another building this is a major difference and we should specify in our qualifications that this be so stated.

Moved by Mr. Krych seconded by Mr. Jaworski that council recess into executive session to discuss personnel and potential litigation.

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

Motion carried. Council recessed into executive session at 7:15 p.m.

Council reconvened from executive session at 8:20 p.m.

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

There being no further business it was moved by Ms. Koski seconded by Mr. Krych that the special council meeting of August 31, 2009 be adjourned.

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

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

Council Clerk

Council President and
Presiding Officer