

ASHTABULA CITY COUNCIL
CITY OF ASHTABULA – COUNCIL CHAMBERS
4717 Main Avenue, Ashtabula, OH 44004

REGULAR MEETING MINUTES
Monday, August 19, 2019

CALL TO ORDER

The President of Council called the meeting to order at 7:00 p.m., the Ward 2 Councilor offered the opening prayer and the Pledge of Allegiance was recited.

MEMBERS PRESENT: Mr. Richard A. Quaranta (Ward 3 Councilor)
Mr. Michael D. Speelman (Ward 4 Councilor)
Ms. Jane E. Haines (Ward 5 Councilor)
Mrs. Kym A. Foglio (Ward 1 Councilor)
Mr. August A. Pugliese (Ward 2 Councilor)
Mr. John S. Roskovics (President)

MEMBER(S) ABSENT: Mr. Christopher J. McClure (Vice President)

OFFICER(S) PRESENT: Mr. James M. Timonere (City Manager)
Mr. Michael Franklin (City Solicitor)
Ms. Traci R. Welch (Director of Finance)
Mrs. LaVette E. Hennigan, MMC (Clerk of Council)

OFFICER(S) ABSENT: None

EXCUSED ABSENCE(S): Mr. Pugliese moved, Mr. Quaranta seconded to excuse the Vice President from this meeting; motion CARRIED.

SUNSHINE LAW: The Clerk of Council certified conformity to the Ohio Sunshine Law.

PRESENTATION(S)

The Ward 2 Councilor presented the following resolution to Mr. Fred Leitert:

RESOLUTION NO. 2019-95

***A RESOLUTION OF APPRECIATION TO
FREDERICK CARL LEITERT***

WHEREAS, *it has come to the attention of this City Council and these Public Officials of the City of Ashtabula, Ohio, that a very special recognition is in order; and,*

WHEREAS, **Frederick (Fred) Carl Leitert** *has shared his love for the Ashtabula Community, specifically the Ashtabula River which is used by residents and visitors from near and far; and,*

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WHEREAS, Fred moved to Northeast Ohio from Rochester, New York in 1964; on March 1, 1979 he was assigned to manage the Diamond Shamrock plant, later known as OxyChem and Gabriel Performance; he first settled in Mentor, Ohio, and continued his move eastward where he resided in Painesville Township and Madison, Ohio before making the City of Ashtabula his home; and,

WHEREAS, Fred was appointed to serve as a member of the Ashtabula City Port Authority in October 2001, by previous City Manager, August Pugliese, a position he served with distinction and from which he retired in November 2018; and,

WHEREAS, Fred currently Co-Chairs the Ashtabula River Remedial Advisory Council (RAP), a group that works with the OEPA and USEPA to remove the six beneficial use impairments (BUI's) from the River, four of which have been removed; their ultimate goal is to remove the Area of Concern (AOC) status from the Ashtabula River, a task that must be approved by the International Joint Commission, whose members consists of United States and Canadian officials; and,

WHEREAS, Fred Co-Chaired the Ashtabula River Partnership for over fifteen years; the Partnership's mission was the remediation and restoration of the lower Ashtabula River; the Ashtabula City Port Authority, as a Non-Federal Local Sponsor, was a member of the Partnership along with the Ohio EPA, ODNR, USEPA, US Army Corps of Engineers, and US Division of Fish and Wildlife;

NOW, THEREFORE, BE IT RESOLVED that this City Council and these Public Officials of the City of Ashtabula, Ohio, are thankful for, and do hereby express our gratitude and appreciation to **Frederick Carl Leitert** for providing nearly two decades of dedicated volunteer service to the cleanup of the Ashtabula River.

ATTEST:

John S. Roskovics
PRESIDENT OF COUNCIL

LaVette E. Hennigan, MMC
CLERK OF COUNCIL

APPROVED:

Christopher J. McClure
VICE-PRESIDENT OF COUNCIL

Kym A. Foglio
WARD 1 COUNCILOR

August A. Pugliese
WARD 2 COUNCILOR

Richard A. Quaranta
WARD 3 COUNCILOR

Michael D. Speelman
WARD 4 COUNCILOR

Jane E. Haines
WARD 5 COUNCILOR

James M. Timonere
CITY MANAGER

Michael Franklin
CITY SOLICITOR

Traci R. Welch
DIRECTOR OF FINANCE

Mr. Leitert commented that the formation of an Ashtabula River Partnership was proposed by the Great Lakes National Program Office at an Ashtabula River Remedial Advisory Council meeting one evening. The meeting took place in Kent State @ Ashtabula's Blue and God Room. A motion was made for the consideration of the formation of a partnership. Six months later the Ashtabula River Partnership was a reality. He said in addition to saying "thank you" for this recognition, it should be noted that the cleanup of the Ashtabula River was a "team effort". He asked then City Manager, August Pugliese, if he wanted to serve on one of the committees. He didn't serve on one, but two committees. He said that was an example of the community's support for the cleanup.

Mr. Pugliese moved, Ms. Haines seconded to adopt the resolution; motion CARRIED.

EXECUTIVE SESSION

Mrs. Foglio moved, Ms. Haines seconded to convene an Executive Session, at this time, to discuss Personnel/Employment and Compensation. On the roll call to convene the Executive Session as requested: Mr. Quaranta, Mr. Speelman, Ms. Haines, Mrs. Foglio, Mr. Pugliese, Mr. Roskovics voted aye; motion CARRIED. The President asked the City Solicitor to attend the first part of the meeting. All others officers remained at the dais.

Reconvene Public Portion of Meeting

At 7:20 p.m., the President announced the public portion of the meeting reconvened with no action to take.

CONSENT AGENDA

The Consent Agenda is a means whereby Council is able to efficiently conduct business by grouping routine items for consideration and disposal.

PRESENTATION OF MEETING MINUTES

The Clerk of Council presented the following meeting minutes for City Council's disposal consideration:

- July 15, 2019 Public Hearing
- July 15, 2019 Regular Meeting
- August 5, 2019 Regular Meeting
- August 12, 2019 Public Hearing
- August 12, 2019 Special Meeting
- August 15, 2019 Special Meeting

Mr. Pugliese moved, Mrs. Foglio seconded to waive the reading of the minutes; motion CARRIED. Hearing no corrections, the minutes were approved as presented.

LEGISLATION AGENDA - None

- Formal Legislation Request(s)
- Form and Correctness
- Legislation Overview
- Public Discussion (on legislation only)
- Reading

REGULAR BUSINESS AGENDA

PRESENTATION OF MEETING MINUTES - None

ADMINISTRATIVE REPORTS and COMMUNICATIONS

CITY MANAGER

The City Manager presented the following:

New Codified Ordinance Chapter 939, Illegal Discharge and Illegal Connection Control

A request for an ordinance to enact a new Codified Ordinance pertaining to the Illegal Discharge and Illegal Connection Control. Mr. Pugliese moved, Mr. Quaranta seconded to approve the City Manager's request; motion CARRIED.

Bridge Inspections

A request for an ordinance for consent legislation to the State of Ohio's Director of Transportation for Bridge Inspection Services within the corporate limits of the City of Ashtabula. Mr. Pugliese moved, Mrs. Foglio seconded to approve the City Manager's request. The Manager reported this is an annual contract at no cost to the City. The Ward 2 Councilor announced railroad bridges are not included. The motion CARRIED.

Liability Insurance – USI Insurance

A request for an ordinance to enter into an agreement with USI Insurance for the purpose of providing liability, auto, property and casualty insurance coverage for a period of one year in an amount not to exceed \$197,881. Funding is authorized from Funds 101, 503, and 225. Mr. Pugliese moved, Mrs. Foglio seconded to approve the City Manager's request; motion CARRIED.

Smith Field Property Boundary

A request for an ordinance to enter into an agreement with MC3 Holdings LLC for the exchange of certain real property along the south boundary line of Smith Field for the purpose of correcting an encroachment issue. Mr. Roskovics moved, Mr. Quaranta seconded to approve the City Manager's request; motion CARRIED.

GPD Group - Petmin Plant Resurfacing Project

A request for an ordinance to enter into an agreement with GPD Group for the purpose of providing design services and construction administration for the Petmin Plant Resurfacing Project in an amount not to exceed \$79,450.

Funding for this expense will be taken from the 412 PI account. Mr. Pugliese moved, Mrs. Foglio seconded to approve the City Manager's request. The Manager reported the following project details:

- Resurfacing will be in the vicinity of Kinder-Morgan/Pinney Dock and where Petmin will locate:
- Parkgate Avenue will be widened to a 4-lane road to accommodate the high volume of traffic during construction
- East 5th Street that runs to a new Petmin entrance, all the way round to Columbus Avenue Extension
- Columbus Avenue Extension, which goes all the way around and back out to Lake Road/East 6th Street
- All the turn areas and intersections will be concrete because large trucks making turns on asphalt will easily tear it up
- Cost is approximately \$1.1 million
- Close to \$700,000 in state grants have been secured
- Greg Myers, Executive Director, Growth Partnership, was a great help, along with State legislators, Ohio Department of Transportation, Ohio Development Services Agency
- About \$400,000 is still needed; this financial need will be borne by the City of Ashtabula and the companies that will use the road, the breakdown will be determined prior to the start of the project
- Right now the plan is to have Petmin start pushing dirt on their property around October; the hope is to get the road installed before October; if not, it will be okay to wait until close to spring 2020. Because of how long it took the construction season to begin due to spring rains, a lot of the companies are book and busy. The fear with trying to do it at the end of the construction season is running the risk of overpaying just to get the paving project completed this year
- A big concern is getting employees and machinery off our 'regular routes' as quickly as possible and into Petmin's property; most of this traffic will be coming from Route 11 and will only be on East 6th Street/Lake Road for a very short time before turning into Parkgate; therefore, normal roadway traffic should not be impeded
- Ingress/egress of residential traffic by the Petmin's proposed entrance will not create an issue for residents
- If need be a temporary light (expensive) at Parkgate Avenue and East 6th Street will be considered, the consideration is because an anticipated 650 to 800 people will be working at the site for 2.5 years
- Once construction of Petmin is complete, the 110 full-time plant employees will not have a negative impact on traffic in that area; nor will there be a need for a traffic light permanently; and
- The City is excited about the project. A lot of gratitude is owed many people and several organizations who helped with funding.

- In response to the Ward 2 Councilor's inquiry, the Manager reported the section behind the Crow's Nest is not included in the resurfacing project, but "probably will be put out as a separate bid".
- In response to the Clerk of Council's inquiry, the Manager reported the roads being installed will not be dedicated to any of the entities; they will become city roads with the City of Ashtabula being responsible for their maintenance. Dedicating them was looked at but ended up not being a feasible option
- The President said, "It's just exciting we're at this point". The Manager said he has been working on the project for 10 years.

The motion CARRIED to enter into an agreement with GPD Group for the purpose of providing design services and construction administration for the Petmin Plant Resurfacing Project.

Microburst Storm Report (up to 70 mile per hour/straight line winds in a short period of time)

Crews are cleaning up the damage; most of the damage occurred in Wards 4 and 5, especially in the Presidential street areas off Main Avenue; there was a lot of tree damage, including in Cornelius Park (Main Avenue & West 44th Street); roads were reopened late last night; home and vehicle damage was sustained; and we continue to monitor electrical outages with the Cleveland Electric Illuminating Company (C.E.I.)

Residents were asked to break limbs down into four foot sections, place them on the treelawn, and by the end of this week and next week crews will remove them. They may also be delivered to the Public Works Department on West 24th Street and placed out front. This is for residents only, not contractors because the City has to pay to have the materials hauled away. If there are issues in neighborhoods, residents were asked to call the Public Works Department or the Manager's office.

Questions / Comments for City Manager

The Ward 5 Councilor thanked Public Works and C.E.I. for working long hours to restore order.

The Ward 3 Councilor said a citizen reported that in front of his property at 820 West 58th Street the road, which is 4 foot wide and 12 foot long, is busted and crumbled up due to heavy truck traffic.

The Ward 3 Councilor said a resident reported that when it rains Ann Avenue & West 32nd Street experiences puddling. The resident is concerned with the water becoming ice during winter months. The Manager said he is aware of this issue; has been out there; there is a line that runs underneath the railroad tracks that we have been trying to clean and jet, but need some permission from the railroad to be on their property – so the railroad is coordinating efforts. Hopefully it will be addressed shortly.

CITY SOLICITOR

No Report

DIRECTOR OF FINANCE

No Report

CLERK OF COUNCIL

No Report

CITY COUNCIL COMMITTEE REPORTS and COMMUNICATIONS

All Council committees meet in the Municipal Building 2nd Floor Conference Room
(Chair/Vice Chair)

COMMUNITY DEVELOPMENT/ECONOMIC DEVELOPMENT/PARKS & RECREATION (CD/ED/P&R)

(Haines/Quaranta)

The Chair reported on the committee's Tuesday, August 13, meeting, as follows:

- The Ashtabula City Parks & Recreation Board were the guests
- Walnut Beach Concession Stand has a new roof
- Beautiful new trash cans are at the beach
- John McCoy approached the committee about donating exercise equipment. (The Manager said the donation has to be accepted after the equipment is installed. The Solicitor said the City should accept the donation "at some point". He also said, "There should be some methodology of giving permission to do the work. But, I'm just saying until you accept it as a donation the gift isn't completed. The gift has to be offered and the other party needs to accept it in order for a gift to be completed." The Chair asked if it should be done tonight. The Solicitor said it could be done tonight, if you're able to describe the donation in terms of work and materials. The Ward 5 Councilor reported there would be 3 pull-up bars and dip bars installed and paid for by the Iron Foundation. Bars would be placed by the tire swing area at the beach. The Solicitor said, "Perhaps another way of approaching it would be to request the legislation (a resolution) tonight, accepting the donation." Ms. Haines moved, Mr. Quaranta seconded. The Clerk reiterated the Solicitor's comment that there should be a method in place to give permission to do the work and then there should be a formal acceptance of the donation. She asked if these are two different items. The Solicitor responded, "Yes, the City Manager generally has charge of the property of the City. He would be within his rights or within his authority to give permission to enter on the land and do the work. So, it could commence immediately. But, in order for it to become property of the City, it needs to be accepted. The motion CARRIED to have a resolution drafted to officially accept the donation.

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The committee's next meeting is September 10. The time will return to 4:00 p.m. Ms. Meeghan Humphrey, Executive Director at the Ashtabula Arts Center and the Ohio Art Council are scheduled guests.

The Chair announced the Parks & Recreation Board is scheduled to meet tomorrow at 6:00 p.m., at Clifford Kadon Presidential Park.

FINANCE & PERSONNEL - (F&P) (McClure/Pugliese)

The President announced the committee did not meet this month. Their next meeting is scheduled for Friday, September 13, at 8:00 a.m.

PUBLIC WORKS/PUBLIC UTILITIES/CABLE/SCHOOLS - (PW/PU/C/S) (Pugliese/Roskovics)

The Chair announced the committee did not meet this month. They are scheduled to meet Friday, September 6, at 8:00 a.m., if there is a need.

SAFETY FORCES - (SF) (Speelman/Foglio)

The Chair announced the committee will meet Monday, August 26, at 8:00 a.m.

CLERK OF COUNCIL SEARCH AD HOC COMMITTEE

The Ward 5 Councilor reported "we had two outstanding candidates. That's probably why it has taken us so long to make a nomination because both candidates would have been absolutely wonderful. But, tonight I would like to nominate Stacy Senskey." Mr. Pugliese seconded. On the roll call to nominate Stacy Senskey: Mr. Quaranta, Mr. Speelman (nay), Ms. Haines, Mrs. Foglio, Mr. Pugliese, Mr. Roskovics voted aye. The motion CARRIED by a 5 to 1 vote.

HONORING AUGUST PUGLIESE AD HOC COMMITTEE

The Ward 3 Councilor thanked the President for his assistance as committee co-chair. Mr. Quaranta moved, Mr. Roskovics seconded to name the Municipal Building 2nd floor conference room the August A. Pugliese Conference Room. The Ward 4 Councilor reported he is in favor of honoring his colleague but will have to vote no on this suggestion because it does not meet the criteria of the "Honors Policy" City Council enacted (June 18, 2018). On the roll call to name the conference room: Mr. Quaranta, Mr. Speelman (nay), Ms. Haines, Mrs. Foglio, Mr. Pugliese, Mr. Roskovics voted aye. The motion CARRIED by a 5 to 1 vote. The President said the plaque is recognition of Mr. Pugliese's almost 60 years of service to the City of Ashtabula.

LEGISLATION AGENDA

- Formal Legislation Request(s): None
- Form and Correctness: Satisfied
- Overview: The Clerk provided a brief overview of the legislation to be considered.
- Public Discussion (Legislation Only): None
- Consent Agenda Format: (requested below)

2nd Reading

ORDINANCE NO. 2019-84, AN ORDINANCE REPEALING, IN ITS ENTIRETY, ORDINANCE NO. 2019-03, FOR THE PURPOSE OF ESTABLISHING THE CLASSIFICATION OF DEPUTY BAILIFF/PROBATION OFFICER/COMMUNITY CORRECTIONS OFFICER IN THE ASHTABULA CITY MUNICIPAL COURT IN ACCORDANCE WITH ASHTABULA CITY MUNICIPAL COURT 2ND AMENDED JOURNAL ENTRY (Nunc pro tunc) NO. 27-672. (Municipal Court Judge), was presented. Mr. Roskovics moved, Mr. Quaranta seconded to waive the reading of the ordinance; motion CARRIED. On the roll call to adopt the ordinance: Mr. Quaranta (nay), Mr. Speelman (nay), Ms. Haines (sought clarification).

President: Announced this ordinance repeals the current payroll ordinance for the Ashtabula Municipal Court and Probation Divisions.

Clerk: Confirmed this to be true. She further said this ordinance repeals what is in place because the current payroll ordinance for the Ashtabula City Municipal Court (AMC) and Probation does not have the position classification of Deputy Bailiff/Probation Officer/Community Corrections Officer. The new payroll ordinance, if enacted, would.

Solicitor: "I think I see how this is going. And, I just have to go on record as saying you really cannot, consistent with your duty, do nothing. The Judge (the Honorable Laura DiGiacomo) has hired a person; she has the right to hire that person. She has stated duties for that person. Some of those duties she gets to set the compensation; some of the duties are subject to your oversight as to the compensation. But, you can't do nothing on that compensation. The person has been hired; the Judge had the authority to do that; the person is doing the work; if you don't like the amount the Judge has set you need to set an amount for that person's compensation for the duties of Probation Officer, which is under your oversight. You cannot, consistent with your duty, do nothing."

Clerk: Is a NO vote is doing nothing.

Solicitor: I'm saying if the repeal and replace (legislation) does not pass then this City Council needs to come out with legislation that states what this man's compensation will be, because he's doing the work."

At the request of the Ward 2 Councilor, the Finance Director reported the employee holding the position that is currently not in the payroll ordinance, has not been paid. She said the Judge agreed to hold off on paying the employee.

Ward 2: "Are we liable to pay this person".

Solicitor: "Absolutely".

Ward 1: It is not that City Council does not want to pay the employee. It is because the Judge refuses to discuss with Council a payment Council feels is fair. "I think it's just a lack of

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communication. She won't come here and discuss with us why she feels that she should pay him this high amount of money. It puts us in a corner. I know you brought back why she told you she's paying this amount of money. But, I think we need to hear it from here. I think she needs to come to City Council. I think she needs to start communicating with this City Council."

Solicitor: Reiterated Council's responsibility to develop an amount to pay the employee. The Judge could say that by rejecting her request, City Council is interfering with the operations of her Court and might seek redress in the Court of Appeals – that is one possible outcome. He does not if she would do so.

President: Asked the Clerk to explain what this ordinance will do, if enacted.

Clerk: The ordinance to repeal always explains why it is being repealed. The new ordinance is drafted to address the repeal.

The President called for the continuation of the vote on the adoption of Ordinance No. 2019-101. Ms. Haines (aye), Mrs. Foglio (nay), Mr. Pugliese (aye), Mr. Roskovics (aye). The motion FAILED by a 3-3 tie.

Clerk: Reiterated that the Solicitor informed City Council they are not able to do nothing. She asked Council if they wanted to instruct her to take some action in order for them to do something, as they are required to do. There were utterances of "I think we should meet". The Clerk addressed the Solicitor and said the Judge has made it clear in writing that her attorney advises the Court not meet.

Solicitor: "That's correct. That's why I took the step of meeting with the Judge and discussing the basis for the compensation she was requesting – because she's indicated that her legal advisor will not support a face-to-face discussion.

Ward 4: Understood the Solicitor to say Council may introduce an ordinance with compensation they believe to be appropriate.

Solicitor: The Ohio Revised Code says Probation Officers are to be paid the compensation allowed by the Legislative Authority. "He's been hired into that position, but because the duties have been combined with another job, the Judge has created a payroll slot that has the combination of Bailiff/Probation Officer. We don't have that in our payroll. So, at this point our Finance Director can't pay him. You have to say, okay, obviously the Court will end up – this may seem somewhat academic; and I believe it will end up being academic, because I think she will simply call him a Probation Officer and order the compensation she has the right to order. I just want to get across to you, you're not really protecting the City Treasury; she has access to those funds. They've been appropriated; they are part of her budget. She's just trying to create a position that fits into the way she's reorganization the Court."

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Clerk: Is the Community Corrections Officer one of the classifications for which the Legislative Authority has the ability to set compensation.

Solicitor: "Not specifically, but I would say that falls under the 'other' court aides catchalls that City Council does have the authority to direct the amount of compensation. To the extent the man is conducting the duties of a Bailiff, she has the right to set the compensation as long as funds have been appropriated. At this point I'm taking that position, that because the position includes the duties of a Probation Officer, the primary authority to establish compensation lies with City Council. There's no provision in the Revised Code for what happens when a person is given two job titles in a municipal court."

Clerk: Three job titles.

Solicitor: Well, the third job title – let's focus on the two that are mentioned in the Revised Code – Bailiffs and Probation Officers. I'm taking the position that City Council would have the authority to set the compensation for such a position because it has the authority to set the compensation for one of the positions. The court might argue no, no, no, she has the right to set the compensation because she has the authority to set it on the other position. But, since you have the purse strings, I'm saying it's your authority and it's your duty. She has the right to hire; she's done so. The man's performing the work; what do you want to pay him?"

Clerk: But, that does not address the third title.

Solicitor: I recognize that. I don't know precisely how those duties are going to be different from a Probation Officer's, so I can't really address it. But, I agree you're in a difficult situation given the Judge's unwillingness to sit and work this out with you. She's taking the position that I've advised you that she's not paying this person any more than the Probation Officer that this man is replacing. She believes that the fact that he's performing additional duties and acting as a Bailiff, more than justifies him receiving the salary the replaced person was getting. You, obviously feel differently, but you need to come back to her with something. I don't think she's going to meet; she said she's not going to meet; you need to come back to her with "here's what City Council proposes to pay."

Ward 3: In other words, she needs something in writing, Mr. Franklin?

Solicitor: I think she needs an ordinance to pay this man. And, the man needs an ordinance from you to get paid. And, sooner or later someone's going to go to court and get something.

Ward 4: Didn't we talk about this before – he was going to get paid out of the Special [Projects] fund? Is he getting a paycheck now?

Solicitor: He's not received a paycheck yet. He should have received one on Friday; he didn't get it. The problem is you have the purse strings. The Finance Director can only pay those positions that you authorize to be paid.

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Clerk: In the payroll ordinance.

Solicitor: Right. The Judge has created a new position, and she has proposed a pay scale for that, and your answer so far has been no, we don't like your pay scale. You (Council) need to come back and set the pay scale.

Ward 1: So, according to the Judge, he's a Deputy Bailiff, he's a Probation Officer and a Community Corrections Officer. So, of those things for us, he's performing two and he's performing a Deputy Bailiff for her. So, maybe our salary should be two-thirds and she pay the other third. Maybe we should think about that.

Clerk: Actually, he's performing all of his responsibilities for the Ashtabula City Municipal Court.

Ward 1 Councilor: Right.

Clerk: But...

Ward 1: At her pleasure, one [position]; at our pleasure, two [positions].

Clerk: Yes, so the Council's pleasure is the salary.

Ward 1: Right.

Clerk: ... not the position. And, as the Solicitor has said, the Judge's reasoning for giving him the exact same pay of the Probation Officer who this gentleman is replacing, who had been with the City for a number of years, is because it's not higher, it's budgeted, no extra money is needed and he's performing two more responsibilities the previous gentleman did not. So, that's the Judge's reasoning.

Ward 1: Right, that's her reasoning.

President: We are at a point where we are either going to have the Finance & Personnel Committee request a meeting with the Judge or there will have to be an Executive Session at some point to discuss employee compensation.

Clerk: If those are the two options, it would be the latter.

President: I don't know what to do. But, at this point this gentleman has not been paid and he will not be paid next Friday either – Right?

Clerk: Correct. Although in her response to Council she said she could pay him out of her Special Projects Fund. Now, is that until forever, I don't know. But, there is no position in the payroll ordinance right now for that gentleman.

Ward 2: Mr. Franklin, if the employee when applying for the job was offered a certain amount of money, and they took the position predicated on the pay that was discussed, if this goes to court, will you be our attorney or do we have to hire someone else? And, would we be responsible for attorney fees on both sides?

Solicitor: What Mr. Pugliese is eluding to is the Judge has the ability to apply to a higher court. Usually it goes to the Court of Appeals and she would seek what is called a Writ of Mandamus (an order directed to someone) to pay the compensation. I could represent Council in that. I could make the argument in response that Council has co-equal authority to set the compensation and Council has set the compensation at – and, at some point hopefully you will tell me what the compensation will be, so I could make that argument to the Court of Appeals. Because, if you do nothing we might as well not even show up – she'll get the order. And, yes, her attorneys will be ordered to be paid out of the City coffeur. So, you have to come up with at least a logic-based reason for paying this person as a Probation Officer/Community Corrections Officer/Bailiff what you believe is merited under the circumstances. And, you will have to be able to state your reasons with some logic in a court of law in order to hope to prevail – if it goes to litigation. Because the Judge has stated earlier she's given you the benefit of her reasoning for requesting the pay scale she has. That's why I say the ball is in your court. You need to pay him something. You need to have a reason for what you're paying him, and then we'll certainly put that up to the Court of Appeals. If the Judge is not in agreement with you, and she decides to take that step, we'll put that up and we'll see how we do. But, again, if you don't do something, it's over. She'll just apply for and get her Writ of Mandamus, and an award of attorney's fees.

Clerk: Tonight, the legislation that just failed may be considered. The members who voted against the ordinance are the only ones permitted to request reconsideration, as members of the "prevailing" side. The President announced, "Seeing no request for that, we'll go on".

ORDINANCE NO. 2019-85, AN ORDINANCE AUTHORIZING COMPENSATION, SALARIES AND WAGES TO EMPLOYEES OF THE ASHTABULA CITY MUNICIPAL COURT AND PROBATION DIVISION. (Municipal Court Judge), was not considered due to the failed vote to adopt Ordinance No. 2019-84.

Disposal by Consent Agenda: Mr. Pugliese moved, Mrs. Foglio seconded to dispose of Ordinance Nos. 2019-94 and 2019-96 through 2019-100, by consent agenda; motion CARRIED.

Reading

The Clerk of Council presented the following legislation for Council's consideration:

ORDINANCE NO. 2019-94, AN ORDINANCE ENACTING NEW CHAPTER 939 OF THE CODIFIED ORDINANCES OF THE CITY OF ASHTABULA, OHIO, ENTITLED ILLEGAL DISCHARGE AND ILLEGAL CONNECTION CONTROL. (City Manager)

ORDINANCE NO. 2019-96, AN ORDINANCE GIVING CONSENT TO THE STATE OF OHIO'S DIRECTOR OF TRANSPORTATION FOR BRIDGE INSPECTION SERVICES WITHIN THE CORPORATE LIMITS OF THE CITY OF ASHTABULA, OHIO. (City Manager)

ORDINANCE NO. 2019-97, AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GANLEY CHEVROLET OF AURORA FOR THE ACQUISITION OF TWO POLICE VEHICLES THROUGH THE STATE COOPERATIVE PURCHASING PROGRAM. (City Manager)

ORDINANCE NO. 2019-98, AN ORDINANCE AUTHORIZING THE CITY MANAGER TO DISPOSE OF OBSOLETE AND UNNEEDED EQUIPMENT IN THE ASHTABULA CITY MUNICIPAL COURT. (City Manager)

ORDINANCE NO. 2019-99, AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH USI INSURANCE AND ARGONAUT INSURANCE COMPANY TO PROVIDE LIABILITY, PROPERTY AND CASUALTY INSURANCE COVERAGE FOR THE CITY OF ASHTABULA FOR A PERIOD OF ONE (1) YEAR AT A COST OF \$197,881. (City Manager)

ORDINANCE NO. 2019-100, AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE EXCHANGE OF CERTAIN REAL PROPERTY ALONG THE SOUTH BOUNDARY LINE OF SMITH FIELD FOR THE PURPOSE OF CORRECTING AN ENCROACHMENT ISSUE. (City Manager)

Mr. Pugliese moved, Mr. Quaranta seconded to waive the reading of the legislation; motion CARRIED. Mr. Pugliese moved, Mrs. Foglio seconded to waive the Charter requirement of two readings. On the roll call to waive the Charter requirement of two readings: Mr. Quaranta, Mr. Speelman, Ms. Haines, Mrs. Foglio, Mr. Pugliese, Mr. Roskovics voted aye; motion CARRIED. On the roll call to adopt the legislation: Mr. Quaranta, Mr. Speelman, Ms. Haines, Mrs. Foglio, Mr. Pugliese, Mr. Roskovics voted aye; motion CARRIED.

NEW BUSINESS

Tell Us Something We Don't Know

Ward 3 Councilor

- Police Chief Robert Stell and his band (Rough Cut) participated in a poll/contest for the most popular country band in Northeast Ohio. Out of 40 bands they finished 4th. The winner is going to be the opening act for a Nashville recording artist, Jo Dee Messina, next month.

Ward 1 Councilor

- Sunday is the last Bands on the Beach (Walnut Beach) from 4:00 p.m. until 6:00 p.m. It will showcase the Tony Esposito Memorial Big Band.
- Congratulation to the students who got to do the happy dance because their return to school was delayed one day. She wished them well tomorrow as they start their first

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day of school. Citizens were reminded to look out for them as they get on and off the school buses.

- The FOP Fish Fry is Thursday, August 29, from 3:00 p.m. until 9:00 p.m., at the Elk's Lodge.
- Have a safe and wonderful Labor Day.

Ward 4 Councilor

- Regarding his personal Facebook post of his fingers – The 1st Amendment is great in that the Star Beacon can write what they want. I can also say I think it's a waste of time putting a picture of me in the paper. About 1000 people thought the post was hilarious and supported him; and 3 thought it was stupid. "I'm not going to apologize. I'm not going to explain anything. If you want to see my fingers you can come look at them, if you want, or you can go to my Facebook and look at the pictures."

Ward 5 Councilor

- TABS (The Arts on Bridge Street) is scheduled for Saturday, August 24.
- Art in the Alley is scheduled for Saturday, September 7, from 2:00 p.m. to 10:00 p.m., at Dublin Downs on Main Avenue.
- My Neighborhood Collaborative is hosting picnic table painting at Clifford Kadon Presidential Park tomorrow – volunteers welcome.

PUBLIC DISCUSSION/COMMENTS (General Matters)

Mrs. Patricia Blum, 1540 West 17th Street, commented on:

- Aqua Ohio water company cuts by Rite Aid on Lake Avenue.
- There are two cuts "still falling in" on Carpenter Road.
- There was nothing done in the middle of Michigan Avenue – at the end it is not too bad.
- She asked for an explanation of the "Administrative Charge" on the City's Sewer and Trash billing. The Finance Director said it is the cost to prepare and mail the bills. It has always been charged, and that the new software breaks everything out. The Manager told Mrs. Blum it was determined that she is still paying the same amount but she has more line items now.

NEW BUSINESS (cont'd)

The President appointed the Ward 3 Councilor as Vice Chair of the Community Development/Economic Development/Parks & Recreation Committee.

The President appointed himself to serve as City Council's non-voting liaison to the newly established "Ashtabula Historic Preservation Commission"

PUBLIC DISCUSSION/COMMENTS (General Matters) – cont'd

Ms. Laura Lacy, 712 West 33 Street: commented on the power surge that happened at her house because the Cleveland Electric Illuminating Company (C.E.I.) does not maintain their electrical wiring – they do not perform scheduled maintenance. There was a bad wire coming from the pole into my house. It caused a power surge which blew ceiling fans and 6 televisions and she was without power 5 days. Because CEI's maintenance personnel said "it's flashing so it must be inside", she had an electrician replace all her circuit breakers. C.E.I. told her they are not held accountable for damage from their equipment. Her insurance company told her to check with her City government to see if:

1. They give C.E.I. some kind of exemption from responsibility for their faulty equipment and damage resulting from faulty equipment; and
2. If they make the electric company do checkups on their equipment to ensure their equipment is not bad and causing damage.

City Manager

1. The City gives no exemption to the power company or any utility company if their equipment is faulty.
2. He believes maintenance on C.E.I. equipment is heavily regulated by the PUCO (Public Utilities Commission of Ohio)

Ms. Lacy said her insurance company also told her to request a copy of whatever C.E.I. provides the City to let the City know their scheduled maintain was performed.

The Solicitor said, "The City of Ashtabula, like most cities in the State of Ohio, doesn't have much authority to regulate any utility that's under the PUCO. I wonder if your insurance company thinks that maybe it's a municipally owned power company." Ms. Lacy said no. The Solicitor said the extent of the City's relationship with them is that they are allowed to put their transition poles in our right-of-way. We do what we can and we are doing what we can to get them to maintain those poles. Right now we are working on getting them to remove old poles that remain next to the new ones they installed. We have inventoried the poles. The three utilities company who use the poles have been told they need to get the dead pole removed because they could fall; they could be dangerous. But, in terms of monitoring their maintenance schedule or overseeing what they test and how they test it, no we don't have the authority to do that.

She inquired about the loose power lines that still remain after four houses on her road were demolished. The Manager asked that the locations be called into the City. He then said if the City or the Ashtabula County Land Bank initiates a demolition, a utility cut off is requested. One utility will be sent to cut the lines for all the companies using the pole (e.g. Windstream - phone, Spectrum - cable, C.E.I.). He has seen the electric company cut the wires for the cable and phone, wind them up and wait for the other companies to make their permanent

disconnects. The Manager said believes the lines that are hanging are for the phone and cable. He said the City should still be told about them so a notice may be issued to those companies.

Ms. Lacy commented on flooding on West 32nd Street and Ann Avenue, as follows: Her backyard butts up to West 35th Street. There is an old sewage drainage system that goes all the way into Station Avenue. It has a large grate over it. There's a line coming from West 35th Street into it, then downs to West 32nd Street then to West 33rd, etc. She knows it was used for flooding. Then there is the drainage ditch that goes between West 35th and West 33rd, right behind the government housing project – all the way around over to the railroad tracks on the other end. The first five years she resided in her home she never had a problem with her yard or basement flooding. In the last 5 years the railroad has had a lot of their railroad ties over in there. They called the City who probably sent the man out. The man said they have it all blocked up over here. Ms. Lacy explained a bit more. The Manager said this is the first time he has been made aware of this. He will look into which member of his staff went to the site and checked it. He said "most of the City's lines are in pipe/in ground." Ditches exist in areas where homes were built but the contractor chose not to build a sewer system. Some of the ditches are supposed to only be maintained by private owners. If the railroad is responsible for the blockage we will be able to tell and will try to correct it.

EXECUTIVE SESSION - None

ADJOURNMENT

Hearing no further business to come before this Council, the President declared the meeting adjourned at 840 p.m.

DATE APPROVED: September 3, 2019

ATTESTED BY: John S. Roskovics
John S. Roskovics
President of Council

ATTESTED BY: LaVette E. Hennigan
LaVette E. Hennigan, MMC
Clerk of Council