



**COMMITTEE OF THE WHOLE MEETING  
NOVEMBER 15, 2004**

Committee Members Present: Brenda Hlas  
Dennis McGlone (Excused)  
Bill Mowery (Excused at 8:00 PM)  
Scott Pelot  
James Price  
Mike Zita  
John Conklin

Administration Members Present Mayor Joseph Kernan  
Claude Collins  
Jeanne Zerga  
Mike Lyons (Excused at 7:30 PM)  
Jeff Pritchard

The Committee of the Whole convened for a meeting on Monday, November 1, 2004 at 6:30 PM, in Council Chambers of the Safety Administration Building. The meeting was called to order by John Conklin, President of Council, followed by the Pledge of Allegiance and a moment of silent prayer.

**Committee of the Whole General Discussion:**

Mr. Conklin gave a brief replay of what took place at the Barberton Board of Health meeting that was held on Wednesday, November 10, 2004. The Board decided to allow Mr. Binic a six month extension to get up to date and get guidelines and monitoring procedures in place for the experimental Mound Septic Systems. Then the Board granted a permit to Mr. Rector for a Wisconsin Mound Septic Systems on a less than ½ acre lot. Mr. Conklin stated his concerns about this and felt they could open up avenues for other property owners to do the same, which is why he had this item on tonight's agenda for discussion.

**NEW BUSINESS:**

**Wisconsin Mound Septic Systems:**

Mr. Conklin noted that Mr. Harrison, the Health Commission for Barberton Board of Health was present, and Mr. Harrison came to the podium to explain the fact that the Board had two courses of action that evening. The first issue was to grant a six-month extension to set the criteria and the second issue was to address the appeal filed by Mr. Rector. The Board reviewed the evidence presented to them that this type of system would not fail and granted his request for a permit. Mr. Pritchard added that the applicant's son designed this type of system. Mr. Pritchard also noted that other Health Departments within the local region has either come to a conclusion or has requested additional information on these types of experimental systems. Mr. Pritchard indicated that the decision by the Barberton Board of Health was a jeopardizing decision, it should have been tabled until further information was made available. Mrs. Hlas asked Mr. Lyons what our options were at this point. Mr. Lyons indicated that the question is whether or not the city can appeal the Boards decision. He is currently reviewing this and has not reached a conclusive decision just yet. Mr. Lyons indicated that even if we do appeal, the evidence that was presented to the Board would be the same evidence presented to the Courts-you could not add something that was not considered earlier. Mr. Lyons indicated that the other alternative would be to ask the Board to reconsider their decision, which they may or may not do. Mrs. Hlas inquired as to how long it would take Mr. Lyons to reach a decision on the appeal, and Mr. Lyons indicated that might take a few more days.

**Wisconsin Mound Septic Systems Continued:**

There was discussion as to the types of soils present on this property, and Mr. Pritchard indicated that he knows of no Wisconsin Mound systems installed on a ½ acre lot anywhere in the county. Mr. Pritchard stated that the point here is the fact that a decision was made without the facts, and that if the Board truly does not have the best interests of this city in mind, then as a city, we have a decision to make. Mr. Harrison stated that the first issue is setting policies and criteria, the second issue is the appeal filed by Mr. Rector. Mr. Conklin stated that there is a third issue, what is the status of anyone else who wants a permit to do the same type of system? Mr. Mowery questioned if anyone present has seen a mound type system? Mr. Mowery indicated that this system does not work, it's a disservice to the landowner because sooner or later he will have major problems with it. Mr. Pritchard indicated that a three-bedroom ranch would overload the system. Mr. Collins asked Mr. Harrison how would the Barberton Health District handle this inspection when Mr. Rector pulls a permit? Mr. Harrison indicated they would hire an expert to do this, someone who is experienced in these types of systems. Mr. Harrison also indicated any future requests for permits would be denied. Mrs. Hlas questioned how can you grant a permit when you have no approved criteria or policy? There was discussion about a resolution from Council to the Barberton Board of Health. It was discussed that the resolution should include three caveats. One caveat is to ask the Board to reconsider/and or reject the permit on Mr. Rector's property; another is to table their decision until such time the Barberton Health District has guidelines and criteria in place; and the third is to deny all future permits until the guidelines and criteria in place. Mr. Mowery moved to place this on Council's next agenda, seconded by Mr. Zita. Mr. Lyons will continue to pursue the possibility of filing an appeal and report back to Council on Monday.

Roll Call:       Yeas: Mowery, Zita, Pelot, Price, Hlas, Conklin  
                      Nays: None

Motion passed 6-0.

**Barberton Health Department Inspection Fees:**

Mr. Mowery stated that he will be attending the next Barberton Health Board meeting (Nov. 15, 2004 @ 6:00 PM) to discuss the proposed increases, and that he would be discussing decreases, not increases. Mr. Harrison indicated that proposed fees are the maximum allowable that could be charged, the amount charged would be less. The Board will determine who will pay these increases, 100% could be paid by the license holder, the taxpayer, or split between the two. There was discussion as to the different levels, the fees and the differences with the fees Summit County charges. Mr. Mowery inquired as to why the increase in the fees. Mr. Harrison indicated that the fee structure has not been increased since 2001. Mr. Mowery had concerns that the smaller business would not be able to pay these increases, and may have to close their business. Mr. Conklin stated that all of Council should make it a point to attend the meeting next week.

**Mosquito Control District:**

Mr. Mowery discussed the fact that Mr. McGlone and Mr. Price had brought up good points at out last discussion, and we currently have an agreement with the Barberton Health District for mosquito spraying. Mr. Mowery indicated that at this point this does not seem too presentable, and he does not support this now. We just passed two critical issues with the school levy and the ½% income tax increase. Mrs. Hlas indicated that she had asked for the answers to her questions she previously asked, to be addressed tonight. Mrs. Hlas stated that Mr. Harrison's memo does not match his statements, especially his vision on the costs of services and his \$100,000.00 figure.

**NEW BUSINESS CONTINUED:**

**Mosquito Control District:**

Mr. Harrison explained the breakdown over the next several years, and that in 2008 if there was a surplus in the fund the Mosquito Control District could spend it as needed. The surplus could be used to reduce assessments to property owners, maintain storm water, etc. Mrs. Hlas stated that basically, we are funding the Health Commissioners budget with any surplus. Mr. Harrison indicated this was correct, it could be used for pay raises, equipment maintenance, employees, mileage, etc. Mr. Harrison added that Barberton Council is considering using their surplus to establish an Animal Control Officer. There was discussion as to mutual aid with other communities, however, if this were done, it would still cost the city for the chemicals, gas, time, etc. Mr. Conklin asked Mr. Harrison if they already have two trucks worn out and cannot get parts, then how would they replace the equipment, and Mr. Harrison replied that the equipment would not be replaced, we would not have the funds to do it. Mr. Mowery indicated that according to the contract the Barberton Health District must supply mosquito spraying. Mr. Pelot expressed his concerns adding that this would never generate enough money to subsidize the district, the millage will costs the citizens money out of their pocket.

Mr. Conklin called for a 10-15 minute recess, and announced that Mr. Mowery is excused from the remainder of the meeting to go to work.

Mr. Conklin called the meeting back to order at 8: 20 PM.

**PC Resolution #39-2004 Rezoning of Lucas Property:**

Mr. Pelot opened the discussions and stated that on November 3, 2004 a revised plan was submitted, and the Planning Commission has approved the rezoning. Mr. Pritchard stated that he is satisfied with the preliminary plat, and they will have improvements and modifications along he way. Mrs. Hlas stated that she realized we are approving the rezoning but also the concept plan as well. Mrs. Hlas indicated that she has issues with the setbacks, and that ultimately this is a BZA decision not Councils. Mr. Pritchard indicated that the developer would be required to put in 75' frontage in this development for single family dwellings. Mr. Pritchard indicated that Council always has the right to grant approval for a conditional rezoning, to hold the developer to adhere to the R-3 Subdivision Code. Mr. Pritchard offered to get a letter in writing from the developer-Pride One that they are aware of the zoning regulations, and that the do not intend to file any variances. Mr. Pelot moved to place legislation approving a conditional rezoning IF and only IF they adhere to the R-3 Subdivision Code, seconded by Mrs. Hlas.

Roll Call: Yeas: Pelot, Hlas, Mowery, Zita, Conklin  
Nays: None

Motion passed 5-0.

**CCA Collection Agency:**

Mr. Conklin asked Mrs. Zerga if this could wait until the December 6, 2004 Committee meeting because he wanted to get through Council Rules and wrap that issue up, to which Mrs. Zerga stated this could wait till next committee discussion.

**NEW BUSINESS CONTINUED:**

**Council Rules:**

Mr. Conklin explained that he had asked the Clerk to research past Organizational Meeting minutes to see how nominations and elections of officers had been handled in the past. Mr. Conklin explained that it was all over the board, sometimes it was paper ballots, sometimes it was roll call, etc. This had prompted more changes to Council Rules 102 which, has been added. Mr. Conklin inquired if Council wanted to see the nominations done on paper ballot as was done in the past. Mayor Kernan stated that he recalls all types of voting in the past, but the one that ran the smoothest was the paper ballot method. Mr. Collins stated the way the new Rule 102 is worded, the current Council President has the option of doing either one. Mr. Conklin indicated that he would offer the option when that time comes. Mrs. Hlas moved to accept the Council Rules as amended on November 15, 2004, seconded by Mr. Zita.

Roll Call: Yeas: Hlas, Zita, Pelot, Price, Conklin  
Nays: None

Motion passed 5-0.

**OLD BUSINESS:**

Mr. Price inquired about the contract we used to have with Summit County for health services, and for mosquito spraying. Mr. Price indicated that maybe we should look at some numbers to go back to Summit County for the mosquito spraying. Mr. Price stated that we may have some options here, and with the passage of the income tax levy, he did not want to be giving money away to get into the mosquito spraying business. Mayor Kernan stated that we did contract with Summit County in the past, but the City did not get very good service for the money spent. However, Mayor Kernan stated that he would look into the numbers and get back to Council. Mrs. Hlas stated that when we compare the figures we need to keep in mind that the Barberton Health District sprays twice a week, a when we had Summit County in the past we were lucky to have spraying once a month. Mr. Zita stated that when it comes to comparisons you need to be comparing apples to apples. Mrs. Hlas stated that we need to compare septic issues, food service, clean up of hazardous properties, and mosquito control.

**Adjourn:**

There being no other business to come before the Committee of the Whole, the meeting was adjourned at 8:53 PM.

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John Conklin-President of Council

*Date approved: November 22, 2004*

***\*\*THESE MINUTES ARE NOT VERBATIM. THE AUDIOTAPE WILL BE ARCHIVED  
IN THE CLERK OF COUNCIL'S OFFICE***