

JACKSON CITY COUNCIL

Minutes from

April 23, 2007

7:00 p.m.

Regular Session

Jackson City Council met in regular session on Monday, April 23, 2007, at 7:00 p.m. at the Jackson City Council Chambers. President Speakman called the meeting to order. The Pledge of Allegiance was led by President Speakman and followed by prayer, led by Mr. Reed.

A roll call was taken as follows:

- Mrs. Colby – present
- Mr. Hughes – present
- Mr. Eric Brown – present
- Mr. Reed – present
- Mr. Cary Brown – absent
- Mr. Stewart – present
- Mr. Heath – present

Mr. Heath made a motion to excuse Mr. Cary Brown, seconded by Mr. Eric Brown. In a voice vote all Council agreed.

Mr. Heath made a motion to amend the agenda and add Roy Hatten to the visitors seconded by Mr. Hughes. In a voice vote, all Council agreed.

Mr. Heath made a motion to approve the minutes from April 9, 2007, seconded by Mrs. Colby. In a voice vote, all Council agreed.

VISITORS

Mr. Hammock, he chose not to address Council. Mr. Heath suggested that we address his issue. Mayor Goodman stated that he had spoken with the Hammock's after an inspection with the Heath Department. 75 tires had been removed from the swamp area. Progress is being made by the property owner to improve the area.

Mr. Roy Hatten, Cambrian resident, excessive noise complaint. Mr. Hatten stated that on the weekends the excessive noise from teenagers cruising is out of control. Some action has been taken, but they continue to rev their engines, blow horns and blare the music. There are approximately 50 residents in the Cambrian, most are sick and elderly. It is well after midnight before the noise subsides. The exhaust fumes are causing him breathing problems; it is dangerous to cross the streets, due to excessive speed. Further

stating that the Mayor, City Council, Police, Sheriff and the OSP are responsible in controlling this problem. He has spoken with the Mayor, Mr. Heath, Mrs. Colby and the Sheriff; he would like to know who is in control. He stated they should block off Court Street to control, these kids are violating rights and are a public nuisance and reminded Council that this is an election year. Mr. Speakman stated this issue will be referred to the Police, Fire and Traffic Committee for review. Mr. Hatten commented on the noise from Parker's Bar, and would like to see this matter addressed also. Mr. Detty stated there is currently a noise ordinance on the books. Suggested rerouting traffic, stating this is a hard issue to enforce. Mrs. Colby stated this falls under the noise ordinance; this should be taken care of by the Mayor and police.

COMMITTEE REPORTS

UTILITY COMMITTEE

Mrs. Colby stated that the Utility Committee met with Seimans on April 19, 2007, the city cannot afford the entire project at this time. The Mayor will be working with them on just replacing the roof and windows. In regards to the 10% rate reduction, the surplus in the electric fund is very low, at this time we cannot lower rates. Tender Fluff Donut issue, they appeared before Council to address the Administration and Council and to make them aware of Mr. Benson's actions. This matter will be turned over to the legal committee. Mr. Heath noted that Mr. Cary Brown was not present at the meeting. He stated that the 7% increase in sales was not a factor; there will still be a \$40,000 loss this year. In less than three years, we will be below the required figures. Jones & Henry numbers showed a benefit to have industrial users. Our economy is going to take a hit. And this rate reduction should be fair to every customer.

BUDGET & FINANCE COMMITTEE

Mr. Reed stated that Mr. Speakman had requested the number of employees per department, and asked if Council had the right to set these numbers, he says we do. The two part time employees in the Utility Department, after one year, they are in the union and no bids are required to make them full time. Past employee numbers are not accurate, will review.

POLICE, FIRE & TRAFFIC COMMITTEE

Mr. Eric Brown stated that the Jackson Fire Department should be commended for the Cross & Sons fire; they saved all but one building. Also in the swift response to the Reigel fire. A meeting has been set for April 30, 2007 at 6:30 p.m. to discuss, Buckeye Community Service property development, traffic flow and noise control near the Cambrian.

SERVICE COMMITTEE – No Report

RAILROAD COMMITTEE – No Report

LEAGAL COMMITTEE

Mr. Heath state that in regards to the Mr. Hodge matter, we had received a letter stating that ruled in favor of awarding Mr. Hodge his unemployment, due to the fact that the second appeal was not filed in a timely manner. Mr. Heath stated this is disconcerting by state officials and this discussion is not based on the merits of the case. State policy was not followed; he stated that he had received a letter from the Mayor stating that the law director knew about the deadline. This matter was not discussed until June 12, 2006. Mr. Detty stated it would be nice if the law office was involved in these things, it has not happened with the current or past administrations. He checked the minutes, found Ordinance 132-06 passed, dealing with the \$9000, this was the initial determination. Mr. Heath stated that Mr. Benson said he had not received all the paperwork. Mrs. Sexton stated the Auditor's office had completed the first page and the entire packet was then forwarded to upstairs. Just received a copy two weeks ago. This was date and time stamped from the state. We did not have a copy. Current practice, these items will be scanned and emailed to the following: Mr. Workman, Mayor Goodman, Mr. Humphreys, Mr. Detty, Mr. Heath and Mr. Howarth. Mr. Reed stated he had tried to get to the bottom of this, no one saw the final copy mailed to the state. Mr. Benson did not complete the forms and many questions were left unanswered. This information was sent from the administrative offices. All of Council wanted this appealed. Mr. Reed noted that paperwork for other cases had been completely filled out, this was the only one sent incomplete and not sent by the auditor's office. Mrs. Colby stated the first time she had heard about this was when the ordinance was brought before Council. She called the Ironton office and they sent her the copies turned in by Mr. Benson. She showed this to Mr. Benson and the Mayor stated he was staying out of this matter. Mr. Heath stated he was illegally hired, he was an at will employee. Mr. Howarth says we can still appeal. The legal committee should review and continue with this. Mr. Reed asks the scenario of a new appeal. Mr. Heath stated he will contact Mr. Howarth and will advise the legal committee. Mr. Reed asks about the cost. Mr. Heath stated it should be very little, leg work is complete. Mrs. Colby stated she would to ask him other directions the Council could take and if charges can be filed against the Mayor.

Mr. Heath stated that a Legal Committee Meeting was held on April 11, 2007 and Mr. Detty had taken the minutes. In regards to pending cases, some will play out, and some will be expedited. There were questions raised in regards to Mr. Benson and his status. Mr. Shoemaker has a legal opinion, although he has not seen this to date. They met last Thursday to discuss the attorney's contract, the current contract expires April 30, 2007, and this could leave the city without any legal representation. The EPA ruling is still not in. The new contract is similar to last years, with an increase of 15% possible in 6 months upon review. Ordinance 63-07 needs passed as an emergency; if not Ordinance 64-07 is an extension. Mayor Goodman stated the most important issue is contract procedure. Further stating that the administration and Council had done a terrible job at this in the past year. The law director needs included in everything before it is forwarded to Columbus. The perception is that the lawyers are free until it comes time to renew the contract. Mr. Humphreys stated ordinance 64-07 should be passed, to be represented.

Mrs. Colby stated she is in favor of a one month extension, setting it at \$13000, there are no pressing issues at this time, only if the EPA ruling comes in. Would also be in favor of paying an hourly rate. Mr. Reed asked if that rate was \$250 per hour. Mr. Heath stated he was not sure. Mayor Goodman stated it could be \$180; this is less than the normal rate. Mrs. Colby stated we needed to review old cases, can we settle and get rid of the attorneys. Mr. Detty is tied up in court. They do deal with delicate state issue, not opposed to hiring hourly. Mrs. Colby stated this is the third year we have hired attorneys, \$130000 the first year. They came out \$20,000 to the good, should think about this a little more and possibly hire hourly. Mr. Heath stated that some cases are difficult. Mr. Reed stated the attorneys have done a good job, we don't give them direction. He has no problem with the hourly rate. Mr. Detty stated placing a set amount of money in the line item and negotiates later. Mayor Goodman stated the hourly rate would be utilized if there were a breakdown of hours for the Sexton, Newell, Hodge and EPA pending cases, would like to set rate around \$180 per hour. Mr. Reed thinks it should be \$150 per hour. Mayor Goodman stated that Mr. Heath refers to this as a matter of principle. Mr. Heath stated that some things have not been charged for. Mayor Goodman stated we have been charged, it is too easy to call Columbus, and this is not free. Mr. Reed stated the fee for EPA, FOP and Hodge was \$180 per hour and the rest was \$150 per hour. Mr. Heath stated this could be different attorney charges. Mr. Speakman suggested placing the money in the Law Directors budget and let him make the final decision. This has been an abuse of expense. There are principles involved, and we should follow the attorney's advice. Mr. Reed stated it would go through the law director or the bill would not get paid. Mayor Goodman stated they it would need to be stated in the contract, or it would be a breach of contract if the policy is not followed. Mr. Speakman asked about the Hodge issue, will we file a motion to appeal. Mr. Reed stated if we cannot win, it's not worth fighting. Mr. Stewart stated that looking at the summary for the past year, we have spent more than its worth already. It's not principle, it's ridiculous, and we need to put a stop to it. Mr. Heath stated he would be speaking with the attorneys on Thursday, Mr. Lindsey stated we have until May 2, 2007 to file the appeal. Mr. Reed suggested a phone call with the legal committee and attorneys to discuss. Mr. Detty stated this needs to go to the legal committee. Mrs. Colby made a motion to give the Legal Committee to meet with the attorneys and make a decision in regards to the Hodge appeal, seconded by Mr. Reed. In a voice vote, all Council agreed. Mr. Stewart further stated that we should look at the dollar amount already spent on this case.

BUILDING COMMITTEE – No Report

AUDITOR

Mr. Humphreys stated that the unemployment for Velvie was answered and the city won with just cause. The following were mentioned, the Investment Board met to discuss investing \$1.9 million in the electric fund, \$750,000 set aside for AMP Ohio, on May 10, 2007 the state auditor's will meet concerning the credit card issues, 7 receipts on hand and 7 receipts missing. They have requested itemized receipts and this should be cleared up. He recommends that Council pay the bill and close the account. There was a

meeting held with Maxximus and the State Auditor this matter is finally settled. There will be an Investment Board Meeting held on Thursday at 10:00.

LAW DIRECTOR

Mr. Detty would like to mention that e-mail have now evolved into the public records law, the state will address this issue. Mr. Humphreys stated that some of the residents are stating that the Auditor's office is releasing information that should not be, this is the law.

MAYOR

Mayor Goodman noted he had read the same article as Mr. Detty and that the State Auditor's office deletes email after 30 days. See Mayor's report.

SERVICE DIRECTOR

See Report.

CHIEF OF STAFF

Mr. Workman noted the ordinance for fuel was being brought forward tonight, only one acceptable bid. He thanked the Stockmeister family for donating the drive in movie screen to the recreation department. This will be cut down in size and will be placed in the park to show outdoor films.

SAFETY – No Report.

CHIEF OF POLICE – No Report.

ORDINANCES AND REOLUTIONS

ORDINANCE NO. 51-07

AN ORDINANCE ACCEPTING REAL PROPERTY FOR THE PURPOSES OF A PUBLIC STREET, DEDICATING THE REAL PROPERTY AS A PUBLIC STREET, AND NAMING THE STREET ATOMIC AVENUE.

Third Reading

In a roll call vote to adopt the ordinance, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes

Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

ORDINANCE NO. 51-07 DULY ADOPTED

ORDINANCE NO. 55-07

AN ORDINANCE TRANSFERRING APPROPRIATIONS, AND DECLARING AN
EMERGENCY.

Second Reading

Mr. Stewart made a motion to suspend the rules, seconded by Mr. Heath. In a roll call
vote, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

In a roll call vote to adopt the ordinance, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

ORDINANCE NO. 55-07 DULY ADOPTED

ORDINANCE NO. 59-07

AN ORDINANCE AMENDING JACKSON CODIFIED ORDINANCE SECTIONS
921.06, RELATING TO ELECTRIC SERVICE-DOMESTIC, COMMERCIAL,
ELECTRIC HOME RATES.

First Reading

Mr. Eric Brown made a motion to adopt the ordinance, seconded by Mr. Reed. In a voice vote, all Council agreed.

Mr. Heath stated there is confusion over the numbers; need a professional study to involve all customers. Mrs. Colby stated we do not have fund balances for this. Mr. Eric Brown suggested instead of the 33% discount in December, break it down to 3% each month. Mr. Speakman stated the December discount was created when it was deregulated; there are 3 to 4 ways to give this discount to customers, compliance issues. Mrs. Colby stated if this was done monthly it would help customers. Mr. Eric Brown stated we need to have another meeting. Mayor Goodman agreed that the December decrease needs addressed. Mr. Detty stated he will contact AMP Ohio to get information. Mr. Eric Brown stated he would like to do this now instead of next year. Mr. Workman stated that the sheets presented show sufficient fund balances at the end of 2007, still gaining us \$1 million this year. Mrs. Colby stated more information needed, if Meridian pulls out that will put our number down to zero, she asked the auditor about usable surplus. Mr. Humphreys stated that only \$119,000 will remain at the end of the year. Mrs. Colby stated that we still have not purchased the property for the substation and we could have more cost overruns. Every year our funds drop, it is the lowest it has ever been, several funds are losing. Mrs. Sexton stated that projections are low, these could be much higher. Adjustments are always made at year end. She spoke with the state auditor about revenue numbers, and this should not be changed right now. Mr. Heath stated showing estimated expense; we did not sell as much revenue. Mr. Reed stated the fund balance is too low, would like to see a couple of million higher.

ORDINANCE NO. 60-07

AN ORDINANCE FINDING THE LOWEST RESPONSIBLE AND RESPONSIVE BID, AWARDING THE CONTRACT FOR FUEL FOR THE CITY'S VEHICLES, TO SSC STORE, INC. dba THE FILLING STATION AND QUICKSTOP, AND DECLARING AN EMERGENCY.

First Reading

Mr. Heath made a motion to adopt the ordinance, seconded by Mr. Stewart. In a voice vote, all Council agreed.

Mr. Heath made a motion to suspend the rules, seconded by Mr. Stewart. In a roll call vote, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

In a roll call vote to adopt the ordinance, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

ORDINANCE NO. 60-07 DULY ADOPTED

ORDINANCE NO. 61-07

AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF JACKSON, OHIO, AND RUMPKE OF OHIO, INC. FOR LANDFILL SERVICES, AND DECLARING AN EMERGENCY.

First Reading

Mr. Stewart made a motion to adopt the ordinance, seconded by Mr. Reed. In a voice vote, all Council agreed.

Mr. Stewart asked if a two year contract was normal. A Rumpke representative stated the past contract was three years. Mr. Eric Brown asked about increases stated in the contract. A Rumpke representative stated that the only increases they impose are through local and state increases, it had been 2 ½ years since the last increase. Mr. Eric Brown asked about afternoon delivery surcharges. A Rumpke representative state there were no such charges, the surcharges were actually township, county, state and EPA fees combined.

Mr. Stewart made a motion to suspend the rules, seconded by Mr. Reed. In a roll call vote, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

In a roll call vote to adopt the ordinance, Council voted as follows:

Mrs. Colby – yes

Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

ORDINANCE NO. 61-07 DULY ADOPTED

ORDINANCE NO. 62-07

AN ORDINANCE APPROVING ADDITIONAL APPROPRIATIONS IN THE
GARBAGE FUND, AND DECLARING AN EMERGENCY.

First Reading

Mr. Reed made a motion to adopt the ordinance, seconded by Mr. Stewart. In a voice
vote, all Council agreed.

Mr. Reed made a motion to suspend the rules, seconded by Mr. Stewart. In a roll call
vote, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

In a roll call vote to adopt the ordinance, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

ORDINANCE NO. 62-07 DULY ADOPTED

ORDINANCE NO. 63-07

AN ORDINANCE PROVIDING FOR AND ENTERING INTO AN AGREEMENT
AND RETAINING SHOEMAKER, HOWARTH, & TAYLOR, LLP, ATTORNEYS AT

LAW, 471 EAST BROAD STREET, SUITE 2001, COLUMBUS, OHIO 43215, FOR ALL OUTSIDE LEGAL SERVICES FOR THE PERIOD FROM MAY 1, 2007 THROUGH APRIL 30, 2008, AND DECLARING AN EMERGENCY.

First Reading

Mr. Heath made a motion to adopt the ordinance, seconded by Mr. Eric Brown. In a voice vote, all Council agreed.

ORDINANCE NO. 64-07

AN ORDINANCE PROVIDING FOR A ONE MONTH EXTENSION IN THE AGREEMENT BETWEEN SHOEMAKER, HOWARTH, & TAYLOR, LLP, ATTORNEYS AT LAW, 471 EAST BROAD STREET, SUITE 2001, COLUMBUS, OHIO 43215, WHICH PROVIDED FOR ALL OUTSIDE LEGAL SERVICES FOR THE PERIOD FROM MAY 1, 2007 THROUGH APRIL 30, 2008, AND DECLARING AN EMERGENCY.

First Reading

Mr. Heath made a motion to adopt the ordinance, seconded by Mr. Eric Brown. In a voice vote, all Council agreed.

Mr. Eric Brown stated we need a special meeting to approve, before the end of the month. Mr. Heath made a motion to amend the ordinance, changing the ending date to May 31, 2007, seconded by Mr. Reed. In a voice vote, all Council agreed.

RESOLUTION NO. 20-07

A RESOLUTION AUTHORIZING A THEN AND NOW CERTIFICATE, AND DECLARING AN EMERGENCY.

Third Reading

In a roll call vote to adopt the resolution, Council voted as follows:

Mrs. Colby – yes
Mr. Hughes – yes
Mr. Eric Brown – yes
Mr. Reed – yes
Mr. Cary Brown – absent
Mr. Stewart – yes
Mr. Heath – yes

RESOLUTION NO. 20-07 DULY ADOPTED

RESOLUTION NO. 22-07

A RESOLUTION AUTHORIZING A THEN AND NOW CERTIFICATE, AND DECLARING AN EMERGENCY.

Second Reading

Mr. Heath made a motion to set a special meeting for Monday, April 30, 2007 at 7:30 p.m. to discuss the attorneys and contractual matters, seconded by Mr. Eric Brown. In a voice vote, all Council agreed.

CORRESPONDENCE

Mr. Speakman stated that Senate Bill 117, will do away with the ability to franchise cable TV, would lose funds from cable, this would effect city revenue.

OLD BUSINESS

Ordinance 23-07, vetoed will be discussed at next regular meeting. Mayor Goodman stated the need to discuss the electric fund balances.

NEW BUSINESS

Mary Bloss request to solicit donations for the Relay for Life, see attached. Mr. Eric Brown made a motion to accept with safety vests to be worn and no minors in the streets, seconded by Mr. Reed. In a voice vote, all Council agreed.

Mr. Reed asked about Clever Investigations, the use of them to collect past due bill, the utility department feels there is no benefit from Clever. Mayor Goodman stated we will get a report to see if anyone has been taken to court.

Mr. Reed stated he had received a call from Steve Boggs concerning bid. Mr. Workman stated he sent a proposal, the bids were not complete. We did sealed bids, they were opened last Friday. Mr. Reed stated this did not run in the paper, this is not a bid, it is a proposal. He wants a certified bid done and ran in the paper. Mr. Workman stated that all area companies were contacted; only two were interested. We will do this again if Council wishes. The dollar amount involved does not require bids or proposals. Mayor Goodman stated this is just a word game, notified Ohio Pest Control that there contract would be renewed. Mr. Reed stated that the proposals were open records when received. Mayor Goodman stated that Ohio Pest Control is a matter of public record. Further stating that is a serious accusation, saying we gave out numbers. Mr. Reed stated that Boggs came in \$8 more per month and \$75 more for mosquito treatments. Mr. Reed stated that Boggs came in at \$189 and OPC at \$181 per month. Mr. Workman stated it sounds as if the bid loser is just complaining. Mr. Reed stated he thinks this should be bid, it is a yearly expense and there is a big difference between a bid and proposal. Mr.

Stewart stated sealed bids would have taken better preparation. Mr. Workman stated that Mr. Reed had already discussed their current proposal. Mr. Reed still wants open bids. Mayor Goodman stated he will bring recommendation, Council can vote it down. Mr. Reed asked Mr. Detty what problems could arise. Mr. Detty stated no problems. Mayor Goodman stated this has been publicly discussed. Mr. Reed made a motion to make the administration to bid pest control, seconded by Mr. Heath. In a voice vote, all Council did not agree with Mr. Eric Brown voting no. Mayor Goodman stated he does not take direction from city council. Mrs. Colby stated that creek cleaning should have been bid.

ADJOURN

Mr. Heath made a motion to adjourn, seconded by Mr. Stewart. In a voice vote all Council agreed. Meeting adjourned at 9:15 p.m.

APPROVAL

Tera L. Brown
Clerk

Ronald Speakman
President

Date_____

Date_____