

JACKSON CITY COUNCIL
Regular Session
June 23, 2008
7:00 p.m.

Call to Order..... President Speakman
Pledge of Allegiance..... Mr. Smith
Opening Prayer..... Mr. Wiggins

Roll Call

Approval of Minutes

May 19, 2008

VISITORS:

- Kara Willis, Economic Development to discuss Phase II Rail Project

COMMITTEE REPORTS:

- Utility
- Budget & Finance
- Police, Fire & Traffic
- Service
- Railroad
- Building/Recreation
- City Auditor
- Law Director
- Mayor
- Service/Safety Director

ORDINANCES AND RESOLUTIONS

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

ADJOURN

JACKSON CITY COUNCIL

Minutes from

June 9, 2008

7:00 p.m.

Regular Session

Jackson City Council met in regular session on Monday, June 9, 2008 at 7:00 p.m. at the Jackson City Council chambers. President Ron Speakman called the meeting to order. The Pledge of Allegiance was given, led by Mr. Eric Brown. The Prayer was given, led by Mr. Wiggins.

A roll call was taken as follows:

- Mr. Evans -- present
- Mr. Adams -- present
- Mr. Eric Brown -- present
- Mr. Smith -- present
- Mr. Cary Brown -- present
- Mr. Elliott - present
- Mr. Wiggins -- present

Mr. Adams made a motion to approve the minutes of May 19, 2008 regular session seconded by Mr. Elliott. In a voice vote, all Council agreed.

VISITORS

Kara Willis was unable to attend.

COMMITTEE REPORTS

UTILITY

Mr. Eric Brown noted that Mayor Heath would address the electric rates. Mayor Heath spoke (see attached) and stated that Mr. Greg Sloan and Andy Blair from AMP Ohio were present to answer questions, along with Tom Woltz, Karen Young, Cheryl Adkins, Wendy Sexton and Jim Humphreys.

Mr. Sloan and Mr. Blair explained that the Mayor's report was factual and went on to explain the billing format and the discrepancies between the cover sheet and the actual invoice. Mr. Eric Brown asked if the detail page was correct, our report shows incorrect bills in March 2008, the amount was correct but the figures do not match. Mr. Sloan stated the amount in the summary was correct, the cover letter amount has been wrong since last year. Mr. Evans stated this will take 18-24 months to collect; we are losing interest, figuring about \$100,000. If you are responsible, are you ready to help. Mr. Sloan stated they are willing to arrange a loan. Mr. Evans stated this does not address the lost funds, will AMP Ohio help. Mr. Sloan stated we will step up, we want to point out all customers have paid less money; we cannot speak for the city on how to recoup funds. Mr. Evans stated we live in area with low income, natural gas and fuel are going up, and we are concerned about fixed income residents. Mr. Humphreys stated we want to go over how to recover and this is none of AMP Ohio's business. Mr. Smith asked how long. Mr. Sloan stated since September 2007. Mr. Smith asked if there was communication with the city in September. Mr. Sloan stated he was not sure. Mr. Smith asked if the city was aware. Mr. Sloan stated he could not say for sure. Mr. Smith stated he has big issues with AMP Ohio, and does not want apologies. Mr. Sloan admitted to poor communication and wants to work with the city to make this right. Mr. Eric Brown asked about the incorrect bill in March 2008, with a corrected bill sent the next day. Mr. Sloan stated the kilowatt hours were wrong but the invoice was correct. Mr. Eric Brown asked is the detail sheet correct. Mr. Sloan stated yes, the cover sheet was incorrect. Mr. Smith stated our city utility department do there best. Mr. Sloan stated if AMP Ohio would have done better this would not have happened. Mr. Humphreys stated we are less \$1.6 million for 2008. We don't want to rush into this; we want to take our time to correct the problem. Mrs. Sexton stated that the fund will be at \$282,000 at the end of this year after commitments. Mr. Eric Brown stated the amount lost in interest to date is around \$90,000. Mr. Sexton stated the interest goes into the general fund. Mr. Speakman requested that the administration and auditor get a plan together

to recommend to the Utility and Budget & Finance Committees. Mr. Sheward stated that Belliso has agreed to pay there share; with will be close to \$1 million over a 13 month period. Mr. Speakman would like to have something by the last meeting in July. Mr. Eric Brown asked if the billing is now correct. Mrs. Young stated yes.

Mr. Smith made a motion to go into executive session to discuss pending potential litigation, US Rail vs. CIT and potential litigation involving employee matters, asking that Attorney Martin attend, seconded by Mr. Eric Brown. In a roll call vote, all Council agreed. Council went into executive session at 7:55 p.m.

Mr. Eric Brown made a motion to return to regular session, seconded by Mr. Smith. In a voice vote, all Council agreed. Council returned to regular session at 9:10 p.m.

Mr. Evans made a motion to have Mr. Detty take necessary action to contact outside council to protect the city's interest against US Rail, seconded by Mr. Elliott. In a voice vote all Council agreed, with the nay vote from Mr. Wiggins.

BUDGET & FINANCE – No report

POLICE, FIRE & TRAFFIC – No report

SERVICE – No report

RAILROAD - No report

BUILDING/RECREATION – No report

CITY AUDITOR

Mr. Humphreys stated that funds had been moved from Star Ohio to National City Bank to receive a better interest rate, 3%. He passed out a letter from Attorney Richard Lewis, see attached, he had discussed with Mr. Detty and sees no reason to respond. Mr. Evans asked if there was a finding for recovery in the overtime repayment. Mr. Humphreys stated this was in limbo; he has called the State Auditor three times with no answer. Mrs. Sexton stated this was an issue but no motion to recover; this was referred to in the management letter.

LAW DIRECTOR

Mr. Detty stated to remind Council that next May that the Berridge property would need to be addressed, this matter will need to go to a committee for recommendation. Mr. Speakman referred this to the Building & Grounds Committee.

MAYOR

Mayor Heath stated that the pool had encountered at capacity levels, which was set at 125, this has been raised to 175 with the addition of extra life guards. Parents and/or guardians not swimming will not be counted; they are also reserving spots for season ticket holders. Letters have been sent to area business to donate to the pool. This will be used for maintenance and possible purchase of apparatus.

The downtown merchants have been contacted to help with the cost of the flower baskets; we would like this to be a team effort.

Mayor Heath will be attending the Ohio Mayor's Association Conference.

The stop light outages on Main Street are due to the recent storms, they will be fixed by tomorrow.

SAFETY/SERVICE DIRECTOR

Mr. Sheward stated that the Street and Alley crews worked very hard, they mowed the cemetery, city owned lots, and 21 lots with no overtime. In regards to Ordinance No. 52-08, Jones-Stephenson is the vendor of choice, guaranteed a 3 year rate with the same coverage with a 42% reduction in premiums. The downtown storm/sewer project is continuing, they have located several pipes and brick arches under the streets. The lining project will start next week, and we are on schedule. The St. Rt. 93 project will be bid later this month. The summer help program has 33 employees; this is down from the 42 last year. Mr. Smith asked about the next mowing date. Mr. Sheward stated the 1st through the 10th; there are a few lots that were missed in the first month.

ORINANCES AND RESOLUTIONS

ORDINANCE NO. 52-08

AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF JACKSON, OHIO, AND THE CINCINNATI INSURANCE COMPANY, AND DECLARING AN EMERGENCY.

First Reading

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

Mr. Evans made a motion to suspend to rules, seconded by Mr. Cary Brown. In a roll vote Council voted as follows:

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – yes
Mr. Elliott – yes
Mr. Wiggins – yes

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

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – yes
Mr. Elliott – yes
Mr. Wiggins – yes

ORDINANCE NO. 52-08 DULY ADOPTED

RESOLUTION NO. 18A-08

A RESOLUTION APPROVING THE 2009 JACKSON CITY LIBRARY BUDGET.

First Reading

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

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

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – yes
Mr. Elliott – yes
Mr. Wiggins – yes

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

Mr. Evans – yes
Mr. Adams – yes
Mr. Eric Brown – yes
Mr. Smith – yes
Mr. Cary Brown – yes
Mr. Elliott – yes
Mr. Wiggins – yes

RESOLUTION NO. 18A-08 DULY ADOPTED

RESOLUTION NO. 19-08

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF JACKSON, OR HIS DESIGNATED REPRESENTATIVE, TO FILE AN APPLICATION TO THE STATE OF OHIO, DEPARTMENT OF DEVELOPMENT, GOVERNOR'S OFFICE OF APPALACHIA, OHIO RAIL DEVELOPMENT COMMISSION (ORDC), AND THE OHIO HOUSING COMMUNITY PARTNERSHIP, TO SUPPORT APPLICATIONS FOR GRANT ASSISTANCE TO REHABILITATE THE CITY OWNED RAIL LINE, CONSTRUCT A NEW RAIL SPUR TO OHIO BASIC MINERALS, LLC. AND DECLARING AN EMERGENCY.

First Reading

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

Mayor Heath asked for a first reading, Ms. Kara Willis is working on funding sources and should be at our next meeting to discuss.


CORRESPONDENCE – None

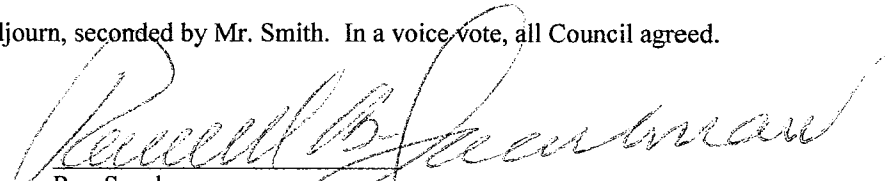
OLD BUSINESS – None

NEW BUSINESS - None

ADJOURN

Mr. Evans made a motion to adjourn, seconded by Mr. Smith. In a voice vote, all Council agreed.
Council adjourned at 9:30 p.m.


Tera Brown
Clerk
Date 10-23-08


Ron Speakman
Council President
Date 10-23-08

ELECTRIC STATEMENT

JUNE 9, 2008

As many of you know, since this council last met, the administration has uncovered a situation in regards to the method in which we have billed our electric customers since last September.

I am going to try to explain in some detail to give everyone a better understanding of the situation, and for your benefit I also have here tonight Greg Slone and Andy Wolfe, both from AMP-Ohio, Tom Woltz, our IT director who was very instrumental in discovering exactly where the problem was and prepared the handout you have, plus Karen Young and Cheryl Adkins from our Utility Billing Department. Of course, Jim Humphreys and Wendy Sexton of the auditor's office will speak shortly on some of the financial aspects of this situation.

Basically for a point of reference, the city of Jackson is one of about 100 or so communities in Ohio that has its own electrical distribution system. We belong to an organization called American Municipal Power of Ohio, also known as AMP-Ohio, which has 123 member communities and serves as our broker to assist us and the other communities to find the cheapest rate on power possible so we can pass along those savings to our citizens and customers.

The ultimate source of the power we use comes from many different outlets, although I can't explain exactly how the national electrical grid or those things work. But we have contracts with various power distribution entities, through AMP-Ohio, which guarantee we will buy so much power from various sources, such as 3 megawatts from this power plant, or seven percent of our usage from the hydro-electric plant we helped to develop, etc. to supply our electrical needs.

These contracts hopefully will lock us in to a lower, more stable rate so we are not so much at the mercy of fluctuating power costs, and it is important to remember the bill we get from AMP-Ohio breaks down each source of power we receive and how much came from that source.

It is also important to remember the bill the customer gets is really a two-part bill, the amount we need to cover our costs to purchase the power, and the amount it costs us to deliver the power to the customers once it gets to Jackson, such as our utility lines, our sub-stations, our employees, etc.

The variations in the monthly bill comes from the charge AMP-Ohio gives us for our electricity, not from any arbitrary charges we add on for delivering the electric to our customers.

Each month, AMP-Ohio sends us a multi-page bill, which covers a wide array of items, costs and circumstances. But in the end, there are really two columns of numbers that we have always used to calculate our rates. One is the number of how much AMP-Ohio says we need to pay them for the power they purchased for us through our contracts and other means.

The second is the amount of kilowatts hours we used as a city as a whole. Then, in simplified terms, we use a formula that basically divides the amount we need to pay AMP-Ohio by the amount of kilowatts used, and that is how in simplified terms we come up with the amount we need to charge each customer.

We currently have a base rate for electric that on average is considered to be an amount that is slightly less than four cents per kilowatt once all the calculations have been worked out, and this rate has not been changed for a number of years. Your base rate is supposed to reflect the average cost of power per kilowatt you pay each month, and ours does come up short of today's market. Thus, as the cost to produce the power from other sources has risen over the years, our fuel adjustment cost has been forced to increase to make up the difference.

In this particular case, AMP-Ohio calculated correctly the amount of money we owed them for power. We, as a city on behalf of our citizens and customers, paid them the correct amount of money.

Where this issue came up was when AMP-Ohio reformatted its billing process last September, AMP-Ohio unfortunately did not sufficiently communicate that reformatting to our city utility department. The result was the bill listed two supplies of power that was in essence calculated once for monetary purposes but twice when it came to the kilowatt hours for these two power supplies. While it did not list the cost of the power in the section where it says how much we pay AMP-Ohio, but listed it elsewhere, it did list the number of kilowatt hours on that corresponding portion of the bill, the section where it indicated how many total kilowatts were reportedly used.

Because of this, it made it appear we used much more kilowatts than we actually did and purchased them at a cheaper per kilowatt hour rate.

When we then, in simplified terms, divided the amount paid to AMP-Ohio by the kilowatts the bill indicated we used, when we had actually used less kilowatts, it caused the number we came up with, the amount we needed to collect from each customer to sufficiently recover our costs for each kilowatt used, to be less than what we actually needed to charge to recover our costs.

Explaining it another way, our basic average rate we use to calculate the fuel adjustment charge is just under four cents a kilowatt hour. If we need to charge the customers an average of six cents a kilowatt hour to recover our costs, then we need to add two cents a kilowatt hour as the fuel adjustment charge. But because we divided the AMP-Ohio cost by the higher number of kilowatts, it made the number appear that we needed to charge, for example, to be in the four to five cents a kilowatt hour range, and thus because we did not charge enough on our fuel surcharge to recover our costs, our fund balance steadily decreased.

Because AMP-Ohio did not communicate these changes, our utility office personnel had no reason to believe anything except there must have been a greater amount of power used by the community at large and that AMP-Ohio had found a cheaper rate for the power since they had no other information to lead them otherwise.

The one time it was raised by the utility department to the previous administration, it was believed that having new power supply contracts in place with AMP-Ohio, along with a refund the city was receiving as a result of a court ruling, explained the lower power rates, although we now know unfortunately this was not the case.

The first time my administration knew of any potential problem in the electric fund was when City Auditor Jim Humphreys pointed out the electric fund compared to last year was much less, maybe as much as \$2 million.

Obviously, one of the duties of the city auditor is to monitor situations such as this and make the situation known, and that checks and balance worked.

The morning after Mr. Humphreys advised all of us of the situation, Service/Safety Director Bill Sheward began working to uncover how such a potential shortfall could occur. Cheryl Adkins of the Utility Department was also realizing about this time when she was filling out her federal energy report, the numbers were not reconciling.

After about three days of dissecting the numbers, it appeared one of the numbers regarding the number of kilowatts used from one of the power suppliers was usually high. AMP-Ohio was contacted, they concurred, and AMP-Ohio immediately rectified the situation on their end so the June bills we sent out would accurately reflect the amount the customer should have to pay for electric for the city to recover its costs.

Bill and myself began to contact the various council members as soon as we had determined how the problem had come about, and we also contacted our major industrial and commercial users to advise them.

I then called a news conference to hopefully explain, prior to the city processing its June billing, that the bills were being readjusted to reflect the correct amount, not necessarily increasing the cost of electric service, which I am sure to some it might seem, but this bill was a reflection of the customers no longer receiving an unintended decrease which certainly produced a negative impact on our electric fund balance.

Now that we know what happened and how we addressed it, the questions are can we prevent this in the future and how do we move forward financially in our electric fund.

Were the necessary checks and balances in place to prevent this particular situation from happening? Obviously not, because it did occur, so one of our first priorities is to make sure this does not happen again.

When the AMP-Ohio officials talk momentarily, I will let them explain their billing process and what steps they are taking to try to prevent this from happening again.

To some extent, we are always going to be somewhat dependent on AMP-Ohio to have necessary checks and balances, and I believe they realize this too.

Since this has never happened before in the decades-long relationship we have had with AMP-Ohio, I guess we both felt we must have had the necessary checks and balances in place and found out the hard way we needed more.

But I can promise you that we are working to do everything on our end to have these in place so the next time we can catch it sooner, and hopefully as soon as we possibly can.

I know our utility billing department now is making a much closer comparison of electric used in the same month from preceding years so any unusual pattern can be picked up on sooner. I know that Tom Woltz is also reviewing this to come up with even additional methods that will help protect us in the future. Our independent consultant, DaCott Power, will also be involved in this.

And although everyone worked very hard on this, Tom worked very diligently to find the exact problem and was most instrumental in us uncovering the exact cause.

I will also allow the AMP-Ohio representatives to speak on whether this has happened elsewhere, although because various communities have various power supply contracts, AMP-Ohio primarily customizes each community's bill to suit each community's needs, which is why one community could encounter this problem and others might not.

The bottom line to this situation, though, is AMP-Ohio charged us the right amount of money, we paid them the right of money, but we did not collect enough money to recover our costs, meaning people used electric that we in actuality did not charge them for, and how does this affects us financially in the future?

Because deputy auditor Wendy Sexton was out of the office last week, we just started to meet with the auditor's office today to see how much we need to recover and how soon we need to recover this.

I have presented a series of financial questions to Jim and Wendy concerning this situation and I will ask them to address these questions once AMP-Ohio has made its presentation.

As far as my administration is concerned, I feel that any recovery plan must be done in fairness to all of our customers and treating all of our customers fairly, thus distributing the responsibility for any recovery proportionately among the amount of electricity normally used by those customers on a regular basis.

One method of doing this could be a fuel adjustment surcharge that is equal to all customers, thus making the amount repaid proportional with the amount used.

Historically, about 49 percent of our electrical usage is by our industrial customers, a number that most likely would have been above 50 percent when Meridian was operating a full capacity.

Another 29 percent of our electric is consumed by our commercial accounts, which leaves only about 22 percent of our electric that is used by our residents in their homes.

So, in other words, about half of whatever we determine needs to be recovered will fall on our industrial customers with Bellisio Foods having to pay the bulk of that industrial repayment. It would appear from these figures less than one-fourth of the amount will have to be recovered from our residential customers.

As to when we might need to start attempting to recover the money not charged previously and the amount is something the administration, the auditor's office, the council's utility committee as well as the budget and finance committee will all have to decide.

One word of caution I want to point out, and I hope Jim and Wendy will cover this, because of the money we borrowed against our electric system for various upgrades, there is a certain amount of our city's electric fund surplus we must keep in reserve and do not have access to for this.

Among this is the \$1.9 million we had to set aside as a reserve when we were forced to borrow the money to build the new sub-station on Veteran's Drive, although I think I can speak for everyone at this table that we want to make any recovery plan as easy on our customers as possible.

I want to thank our industrial customers who have been understanding during this time, as this is certainly going to have a profound effect on their financial projections for their utility usage this year, especially since the problem has stretched over two calendar years and because last year's charges overall were not sufficient, they budgeted their costs this year on last year's inaccurate charges.

I know many citizens have had many questions, as well they should. But I know many have been patient and understanding once they have heard the full explanation, and maybe still didn't like it, are angered by it and wonder how it could have happened, but know it happened.

Do I regret this happened? Absolutely, anything that negatively impacts my fellow citizens and our utility customers is most regretful for me and my administration, and I know it has been a hardship and burden on each of you as well and I am deeply sorry.

I have never encountered a situation like this, though, as I don't believe AMP-Ohio has either and never quite dreamed of this scenario ever unfolding.

One of the most disappointing aspects to me personally might be I wanted to work very hard this year to re-establish financial responsibility in our utilities, which have had severe losses in their surpluses in recent years, and to gain the trust of the people in relaying to them how our utilities needed to operate to be both efficient and financially feasible. Obviously, this is a definite setback to that goal.

But the fact is the situation happened, we all need to work diligently to make sure it does not happen again and be fully responsible in our actions moving forward.

I hope this has answered some of the many questions we all have had. Tragically, it doesn't change the fact that this situation occurred, and there are no easy answers as to how to resolve it. But I know my charge is to make sure it is resolved in the best interest of all of our citizens and customers, who are in essence the electric department and fund.

I would now ask Greg Slone and Andy Wolfe, both of AMP-Ohio, to add whatever they wish to what I have said.



The Law Firm of

Richard M. Lewis, LLC

295 Pearl Street • Post Office Box 664 • Jackson, Ohio 45640

Richard M. Lewis*

February 13, 2006

Carl Barnett
Auditor, City of Jackson
145 Broadway St.
Jackson, OH 45640

VIA Hand Delivery

Re: Back pay for Steve Benson, City Engineer

Dear Carl:

At Steve Benson's request I've reviewed his contract that was in effect from January 22, 2003 until November 28, 2005. It provides, "On January 1 of each year during which this agreement is in effect Benson's rate of pay shall be increased by a percentage equal to the highest percent raise received by the City's Department Heads." Steve did not receive the appropriate raise for the years 2004 and 2005 based on the supervisor's raise which is contained in the OAPSE contract. His raise for 2004 should be based on Robin Bissell's raise. The OAPSE bargaining unit is for department heads. She is a member of that union. Her wage rate at the beginning of 2003 was \$12.90 per hour as set forth in ordinance 147-02 effective 1/1/03. She finished the year at \$19.08 per hour in accordance with the provision in the OAPSE contract on page 32 which was effective September 1, 2003. Therefore she received 47.9% raise during the year 2003. Steve Benson would therefore be due a 47.9% raise for 2004.

For the year 2005, up to November 28th, Steve would be due another 4% raise. These raises are past due and this is my request that they be paid to Steve as soon as possible. Thank you for your attention to the matter.

Sincerely,

The Law Firm of Richard M. Lewis

Richard M. Lewis
Attorney at Law

RML:cs
Cc: Steve Benson



The Law Firm of

Richard M. Lewis, LLC

295 Pearl Street • Post Office Box 664 • Jackson, Ohio 45640

Richard M. Lewis*
Sheri Allen Black
Mark B. Csank

May 15, 2008

Jim Humphreys
Jackson City Auditor
Courthouse
226 E. Main Street
Jackson OH 45640

Re: Back pay due Steve Benson

Dear Jim:

I am writing to, again, request that full back payment due Steve Benson under his contracts with the City of Jackson be paid immediately. The amount has been clearly stated in my prior correspondence to the City. Please advise whether the City intends to make full payment or not and if not please provide me the reasons.

Sincerely,

The Law Firm of
RICHARD M. LEWIS, LLC

A handwritten signature in cursive script that reads "Richard M. Lewis".

Richard M. Lewis
Attorney at Law

RML:imp

xc: Steve Benson



The Law Firm of

Richard M. Lewis, LLC

295 Pearl Street • Post Office Box 664 • Jackson, Ohio 45640

Richard M. Lewis*

Sherri A. Black

Mark B. Csank

May 28, 2008

Jim Humphreys
Auditor, City of Jackson
145 Broadway St.
Jackson, OH 45640

Re: Back pay for Steve Benson, City Engineer

Dear Jim:

Enclosed please find a copy of the letter sent to Carl Barnett dated February 13, 2006 which you requested.

Sincerely,

The Law Firm of Richard M. Lewis

Richard M. Lewis
Attorney at Law

RML:cs
Enclosure
Cc: Steve Benson