

JACKSON CITY COUNCIL  
Regular Session  
August 23, 2010  
7:00 p.m.

Call to Order..... President Speakman  
Pledge of Allegiance..... Mr. Adams  
Opening Prayer..... Mr. Powell

Roll Call

Approval of Minutes

August 9, 2010

VISITORS

COMMITTEE REPORTS:

- Utility - Brown, Smith, Adams
- Budget & Finance – Adams, Powell, Elliott
- Police, Fire & Traffic - Smith, Colby, Elliott
- Service – Elliott, Colby, Fain
- Railroad – Fain, Smith, Powell
- Building/Recreation – Colby, Fain, Brown
- City Auditor
- Law Director
- Mayor
- Service/Safety Director

ORDINANCES AND RESOLUTIONS

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

ADJOURN

## JACKSON CITY COUNCIL

*Minutes from*  
August 9, 2010  
7:00 p.m.  
Regular Session

Jackson City Council met in regular session on Monday, August, 2010 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 Mrs. Colby. The Prayer was given, led by Mr. Powell.

A roll call was taken as follows:

- Mr. Adams – present
- Mr. Brown – present
- Mr. Elliott – present
- Mr. Smith – present
- Mr. Fain – present
- Mr. Powell - present
- Mrs. Colby – present

Mr. Elliott made a motion to approve the minutes from the July 26, 2010 meeting Regular session, seconded by Mr. Adams. In a voice vote, all Council agreed. Mr. Brown made a motion to approve the minutes from July 30, 2010 and August 2, 2010 meetings Special session, seconded by Mr. Fain. In a voice vote, all Council agreed.

### **PUBLIC HEARING**

Council open the public hearing in regards to the proposed Dickerson Street tower, anyone wanting to speak will be given two minutes. Mr. Sheward stated that Derrick McGrew was here on behalf of the proposed tower. A suit was filed against the city today with officials being named.

Randy Ridge was the first to speak, stating he lives within a 1000' and has 3 properties within this area and also his mother in law lives on Dickason Street. No one really wants this tower in the downtown, and cannot see the benefit of 200' tower and ask what started this. He stated it is hard to have a zoning code that can cover everything, should not rush to judgment, and consider the impact. Does this tower have to be near my home and what the need for it is? Matt Eaton of 50 Highland Drive was there to speak on behalf of the neighbors, it affects the treescape and we are against. When we leave our neighborhood that is what we will see, eyesore, and impact to surrounding neighbors. We are setting standards; we need to keep the city pretty for the residents. John Peters spoke on behalf of the residents down stream; this affects the flood plain and ways. He has viewed the maps. The service director is responsible for construction permits. Dusty Sexton stated the zoning board should have kept this out of the skyline; it is an injustice to the residents.

Mike Clagman, a Dickason Street resident is against the proposed tower. Susan Ridge stated to consider the facts, a business is wanting to profit; citizens should be put above corporations. Mr. McGrew stated the tower was approved, with a 5 to 1 vote, and he stated he has lived beside them, being 300' from 2 and 600' from 3 towers. This eyesore was showed with the application; we could not use the water tower. As far as flood plain, we submitted the required elevation certificate. Mr. Peters stated he attended that meeting, the purpose was for the height of the tower, understand, not for permits, there needs to be another meeting in regards to the flood way. Mrs. Colby stated she too attended that meeting, and spoke in opposition, residents were not notified. There were comments about Holzer and the flight path, mentioned by the Law Director. She agreed with Mr. Peters, it was for a variance on height. There is an ordinance for towers, 20' above the structure, they granted a 179' over, since this was not totally finalized Council has passed and we do have a say.

Mr. Brown stated he is the chairman of the zoning board; public notice was given both radio and media. This was conditional use, this is zoned industrial. Few residents attended, seemed for WIFI needed to be centrally located, the committee thought this was a good place. Question of the flood zone, elevation certificate provided, and the vote was 4 to 1. One member is a pilot, 200' is not an issue, and it would have to be higher. Mr. Ridge stated the feed mill across the street, been there a long time, very clean today, 199' tower will tower everything in the city, argument is skewed. Flood way/plain different terminology, the entire area to McDonalds is in a flood plain. Mr. Smith stated if this is a higher elevation and can't clear tree line, would like to see a study. Mr. McGrew stated even if we were it doesn't change anything, you have a process. Mr. Adams asked why when opposition didn't you come to council and then come to court. Mr. McGrew stated I was not invited to this meeting. Mr. Smith replied the Administration was to handle. Mr. Sheward stated no the Law Director, he was aware of the ordinance being passed, would possible effect of hearing. Mrs. Colby stated on the county map, FEMA has the

say, you must apply with them. Mr. McGrew stated we have and we have an elevation certificate. Mrs. Colby asked in this county. Mr. McGrew stated I have the document. Mrs. Colby stated you paid for it. Mr. Sheward stated the truth of the matter s, even if in the flood plain, following procedure, application comes to me. Mr. McGrew stated an electrical source is available. Mr. Sheward stated the footprint is small, monopole tower and they have met requirements. Mr. Smith asks about the repeater, no education on moving. Mr. McGrew stated that is the height on top of the tower. Mr. Smith ask if the repeater can be moved and solve the problem. Mr. McGrew stated problem with vegetation. Mr. Brown stated it was relayed to the board, central location, central to the city and this is the only way it would work. It is industrial zoned, monopole; the fattest part will be hidden by the trees. He went on to say he put notification in the paper and radio; no one contacted me, not a single call until after the meeting. Four members saw no opposition. Mr. Powell stated there was a vote by the board, only one vote in opposition. Mr. Brown stated in regards to the flight path and height, we have a member who is a pilot, and he said there would be no issue. Mr. Smith stated he would be highly impressed if he received WIFI at his house, common sense says too many trees, don't buy it. He had asked and nothing else was approved that night, one member asks not to vote, due to not enough information to make a decision. He asks to provide information and answers, not enough information, are more forth coming, there are health concerns, and it is beside a school. Mr. Elliott stated the problem is something is already signed, Mr. McGrew feels this is pointless. Mr. Speakman stated we would need an executive session to discuss pending litigation. Mr. Detty stated the only action is to vote at the next meeting and ask for more information, can have an additional public hearing or vote next meeting. Mr. Humphreys stated he was aware that JCEDB came before council for broadband on water towers and this provided compensation, what does that do in that situation. Mr. McGrew replied really nothing. Mr. Humphreys stated drive around, see out in the wooded areas. Mr. McGrew stated this is open range technology, only can emit so far, it would have been much easier as the county has no zoning. Mrs. Colby stated do we have a signed agreement. Mr. Detty replied no. Mr. McGrew stated it was approved by the zoning board. Mr. Detty stated there is no agreement with the city. Mrs. Colby stated this needs follow up after approval. Mr. Powell ask if this does happen, what benefit is there to the community. Mr. McGrew stated city benefited with high speed internet and lure to business. Mr. Speakman closed the public hearing at 7:40 p.m. under advisement from the Law Director or council could move to executive session.

## VISITORS

Beau Kearns, Jackson County Bow Hunters, came to discuss the lease at the club, been in place since the late 60's, would like to continue. This is a benefit to the area youth and 4-H, just here to answer questions. Mr. Adams asks if there was out of the ordinary. Mr. Kearns replied 10 years again, no change.

Attorney Richard Lewis, for Marion Hall, US Rail, stating they have operated the short line rail since 2004, there has been a 50% decline in cars. Would like to work with the city to identify problems with right of ways, crossties and rails, grade crossing, etc. There is little to no money in the fund, Richland tunnel is holding up well, there is a bridge out of service at the 27.2 mile post, sewer bores in Hamden have caused problems. Currently working to recoup damages in the amount of \$60,000 estimated cost, rural water has also done bores. There was a 20 car with Knock & Sons. There are new business opportunities, two letters were presented to the Railroad Committee, and both companies are willing to locate here. He would encourage Council to settle litigation rather than expand. Discovery is due October 21, 2010, there are still a number of depositions and this is an expense to the city. Consider reasonable terms to resolve, think strongly, US Rail is will to pay the city for rail sold, plus other things.

## COMMITTEE REPORTS

UTILITY – No Report

Mr. Brown scheduled a meeting for August 23, 2010 at 6:00 p.m. to discuss the electric rate structure and base rate.

BUDGET & FINANCE – No Report

POLICE, FIRE & TRAFFIC – No Report

SERVICE – No Report

RAILROAD

Mr. Fain reported the committee met at 6:30 p.m. and moved to executive session. Mr. ~~Elliot~~ Elliott made a motion to authorize the Law Director to perform any actions deemed necessary on the federal lever against US Rail, seconded by Mr. Fain. In a roll call vote, all Council voted yes.

BUILDING/RECREATION

Mrs. Colby reported that the fund balance in recreation is \$40,000, reserve balance is \$548,000, and she thinks recreation is in good shape.

CITY AUDITOR

Mr. Humphreys reported there is no monthly report yet. The Investment Board met current rates are 1.3% interest; this is drastic reduction to the general fund, \$400,000 - \$500,000 loss.

LAW DIRECTOR

Mr. Detty gave his report, see attached. He noted that he did attend the County Budget Committee meeting, in regards to the Health Department levy, proposed \$180,000 budget, at a cost of \$45,000 to the city. They allow us to see and made reduction arguments.

MAYOR

Mayor Heath commended the Jackson Fire Fighters Association for a successful Pig Iron Days event; this is a great use of the park. Ron and Tom started this event many years ago. Mr. Doug Reed was in attendance, when his unit came home last Wednesday he was there, he is in remarkable shape.

SAFETY/SERVICE DIRECTOR

Mr. Sheward reported the city received the Water <sup>Fluoridation</sup> ~~Chlorination~~ Award from the Ohio Department of Health. Ordinance 66-10 is for the bow hunter's lease, good tenants, encouraging approval. The committee met on the cemetery to change operations, this never got put in, and Ordinance 67-10 is a little later than expected. Ordinance 68-10 is a request for the sewer department. Resolution 17-10 is renewing the ability to state purchase. Ordinance 65-10 is for street paving, ask that you approve on overlay, and reject all bids on Robin Hill. Mrs. Colby asks how many bids received. Mr. Sheward replied three. Mr. Smith asks if we had sprayed for mosquitoes. Mr. Sheward replied yes, not sure the next date. Mr. Brown stated that he had a complaint in regards to the railroad crossing on SR 788, there is a bad hole, thinks this is very dangerous. Mr. Fain stated this has been mentioned before, tie missing in the center. Mayor Heath stated there is a legal aspect, which can repair. Mrs. Colby had received a letter in regards to junk cars. Mayor Heath stated he forward to the police chief.

ORINANCES AND RESOLUTIONS

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ORDINANCE NO. 63-10

AN ORDINANCE APPROVING ADDITIONAL APPROPRIATIONS IN THE LILLIAN JONES MUSEUM FUND, AND DECLARING AN EMERGENCY.

First Reading

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

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

- Mr. Adams – yes
- Mr. Brown – yes
- Mr. Elliott – absent
- Mr. Smith – yes
- Mr. Fain – yes
- Mr. Powell – yes
- Mrs. Colby – yes

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

- Mr. Adams – yes
- Mr. Brown – yes
- Mr. Elliott – absent
- Mr. Smith – yes
- Mr. Fain – yes

Mr. Powell – yes  
Mrs. Colby – yes

ORDINANCE NO. 63-10 DULY ADOPTED

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ORDINANCE NO. 64-10

AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF JACKSON, OHIO, AND THE JACKSON COUNTY ECONOMIC DEVELOPMENT BOARD, FOR MARKETING BROADBAND UPON CITY OWNED WATER TOWERS, AND DECLARING AN EMERGENCY.

First Reading

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

Mrs. Colby stated she did not think we should turn over towers; there are no figures on the money. Mr. Smith stated we are not entering into an agreement, just agreeing to market. Mr. Detty replied authorizing agreement. Mr. Smith stated they need to start marketing. Mr. Brady replied you will deploy. Mr. Smith asks we have a member and a say. Mrs. Colby stated we are allowing to use our towers. Mr. Brady replied market space. Mr. Brown asked if we have the right to refuse. Mr. Powell asks this to go to second reading. Mayor Heath requested any questions be given to him to forward to Mr. Brady, this affects the entire county.

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ORDINANCE NO. 65-10

AN ORDINANCE FINDING THE LOWEST RESPONSIBLE AND RESPONSIVE BID, AWARDING THE CONTRACT FOR THE PAVING OF CITY STREETS TO COX PAVING, INC., LEESBURG, OHIO AND DECLARING AN EMERGENCY.

First Reading


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

Mr. Smith ask reject Robin Hill, do we have the money to repair, don't think it will make it through winter. Mr. Sheward was not sure, some idea, believe the cost will be \$50,000; we have potential to do the worst places. Mr. Smith stated this is a bad area; don't want that area left out. Mayor Heath stated the funds come from sales tax, community improvements.

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – yes

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – 

ORDINANCE NO. 65-10 DULY ADOPTED

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ORDINANCE NO. 66-10

AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF JACKSON, OHIO AND THE JACKSON BOWHUNTERS CLUB, FOR THE RIGHT TO USE CITY PROPERTY FOR CLUB ACTIVITIES, AND DECLARING AN EMERGENCY.

First Reading


Mr. Brown made a motion to adopt, seconded by Mr. Smith. In a voice vote, all Council agreed.

Mr. Powell stated they do a nice job, took kids out there it was fantastic; however the lease ended July 17<sup>th</sup>, curious why? Mr. Kearns replied we did not want to submit without liability insurance, proper documentation.

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – yes

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – 

ORDINANCE NO. 66-10 DULY ADOPTED

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ORDINANCE NO. 67-10

AN ORDINANCE AMENDING JACKSON CODIFIED ORDINANCE CHAPTER 941 RELATING TO CEMETARY, AND DECLARING AN EMERGENCY.


First Reading

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

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – yes

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – 

ORDINANCE NO. 67-10 DULY ADOPTED

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ORDINANCE NO. 68-10

AN ORDINANCE MOVING APPROPRIATIONS IN THE SEWER FUND, AND DECLARING AN EMERGENCY.

First Reading

Mr. Smith made a motion to adopt, seconded by Mr. Adams. In a voice vote, all Council agreed.

Mr. Smith questioned changes in the utility billing. Mr. Sheward replied changed sewer plant to industrial rate, first year for alum, shocking.

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – yes

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – ~~no~~ *yes*

ORDINANCE NO. 68-10 DULY ADOPTED

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RESOLUTION NO. 17-10

A RESOLUTION AUTHORIZING THE CITY OF JACKSON, OHIO TO PARTICIPATE IN THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) COOPERATIVE PURCHASING PROGRAM, AND DECLARING AN EMERGENCY.

First Reading

Mr. Adams made a motion to adopt, seconded by Mr. Fain. In a voice vote, all Council agreed.

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes  
Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – yes

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

Mr. Adams – yes  
Mr. Brown – yes  
Mr. Elliott – yes  
Mr. Smith – yes

Mr. Fain – yes  
Mr. Powell – yes  
Mrs. Colby – ~~no~~ *yes*

RESOLUTION 17-10 DULY ADOPTED  
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**CORRESPONDENCE**

**OLD BUSINESS**

Mr. Speakman asks for a collection for flowers; give to the clerk, condolences given to the Mayor on the loss of his father.

**NEW BUSINESS**

Mr. Brown announced a Zoning Board of Appeals meeting on August 16, 2010 at 6:30 p.m., to discuss Kearns site plan, Kroger's gas station and billboards.

Mr. Smith made a motion to go into executive session to discuss new litigation with regards to the tower, seconded by Mr. Fain. In a roll call vote, all Council agreed. Council moved into executive session at 8:25 p.m.

Mr. Smith made a motion to return to regular session, seconded by Mr. Fain. In a voice vote, all Council agreed. Council returned to regular session at 8:45 p.m.

**ADJOURN**

Mr. Smith made a motion to adjourn, seconded by Mr. Powell. In a voice vote, all Council agreed. Council adjourned at 8:45 p.m.

*Tera Brown*  
Tera Brown  
Clerk  
Date 8-23-10

*Ronald B. Speakman*  
Ron Speakman  
Council President  
Date 8/23/10



*Council Clerk Tera Brown*

## **JOHN L. "JACK" DETTY**

**Jackson City Law Director**

**145 Broadway Street**

**Jackson, Ohio 45640**

Phone: 740-286-2201

Fax: 740-286-3492

[jdetty@jacksonohio.us](mailto:jdetty@jacksonohio.us)

*Jackson City Council*

*August 9, 2010*

### ***REPORT OF THE LAW DIRECTOR***

The following is the Report of the Law Director:

#### **• ORDINANCES/RESOLUTIONS**

- Ordinances 63-10 and 68-10 are budgetary type ordinances. The Auditor's Office can provide any information you may request.
- Ordinance 64-10 is the Ordinance for consideration of the Broadband Marketing Agreement with the Jackson County Economic Development Board (JCEDB). Draft copies of the Agreement should have been passed out to you last week.
- Ordinance 65-10 is an ordinance finding the lowest and best bid for the paving of certain City streets. If you have any questions the Service Director can provide information.
- Ordinance 66-10 is an agreement between the City and the Jackson Bowhunters Club. The Bowhunters Club has had an Agreement for quite some time to use City property in the Hammertown Lake area for its club activities. The Agreement is getting ready to expire and they are requesting the Agreement be extended for another 10 years. Perhaps this should go to the appropriate committee for a recommendation.
- Ordinance 67-10 – In reviewing the ordinances and minutes neither the Service Director's Office nor myself can find where the Cemetery Ordinance was ever adopted. Originally Ordinance 45-10 was prepared to adopt the new Cemetery regulations, but we cannot find any documentation this was ever presented or passed. To make sure this is taken care of I have prepared a new ordinance to make sure the new items are in the Cemetery regulations. If 45-10 was passed this new ordinance is the exact same thing.
- Resolution 17-10 is merely a resolution to allow the City to continue to participate in the State Purchasing program.
- ballot.

- **RAILROAD – City v US Rail Suit**

- A Railroad Committee meeting is scheduled for August 9, 2010- at 6:30 p.m., just prior to our regular Council meeting.
- Nothing new in this matter since the last meeting.
  - discovery process.
- I will keep you advised as information becomes available.

- **RAILROAD – Fenton Rigging v US Rail and City Suit**

- As I informed you at the last meeting on July 21 the City was served with a suit filed by Fenton Rigging & Construction, Inc., filed against US Rail and the City of Jackson. This suit is filed in the Hamilton County Common Pleas Court. Due to the nature of this suit I have been informed the insurance coverage the City has will not cover this matter.
- My office is preparing a response to the suit and it will be filed timely.
- If you would like to discuss this matter further I would suggest an executive session.

- **BROADBAND MARKETING CONTRACT**

- Draft copies of the Agreement were distributed to Council members last week.
- An ordinance is in the packets for this meeting for consideration.

- **HEALTH DEPT. LEVY**

- On July 29 I attended the County Budget Commission meeting concerning the County Health Department levy, and the fallout to municipalities and townships in the event the levy does not pass.
- The City is at risk in an amount of up to \$45,000 if the levy does not pass.
- The municipalities and townships can have some input with the Commission on the Health Department's budget.
- I asked for, and I am to be provided, a detailed line item of the Health Department's budget request and also a copy of the agreement between the municipalities, townships, and health department.
- As I receive information and get a chance to review that I will forward to you copies of any documents, and any input and research I do on this matter.

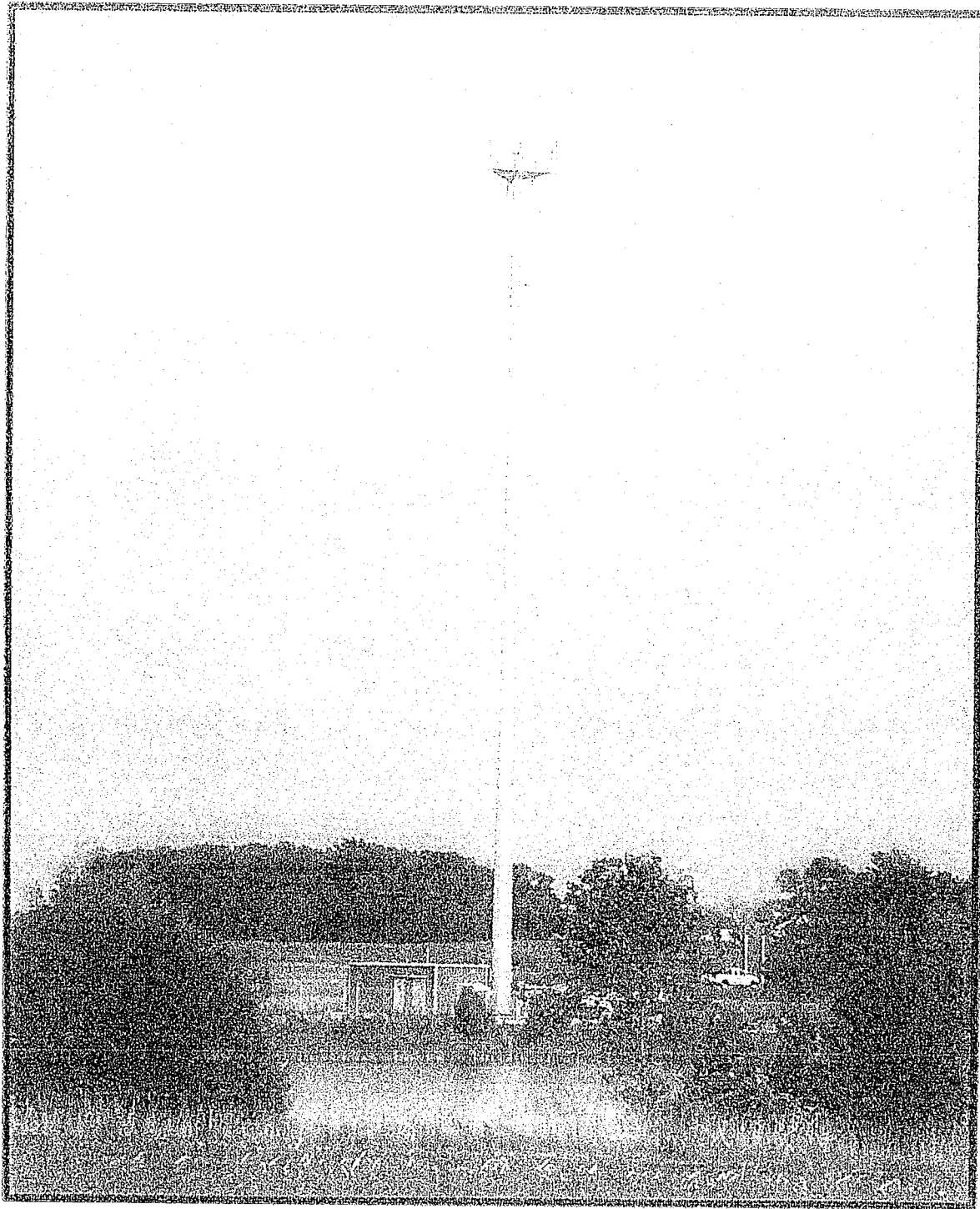
- The Commission stated it was their intention to make sure the municipalities and townships were notified, and a meeting was held, prior to any approval of the Health Department's budget.
  - If the Health Department levy passes this issue disappears.
- **PUBLIC HEARING – Tower on Dickason Street**
    - The public hearing on this matter is to be conducted during the August 9, 2010 Council meeting.

*Thank you for your service, and  
if at any time you have any questions or would like to  
discuss any issues with me please feel free to stop  
by my office, or call me at 710-1214.*

*John L. "Jack" Detty*

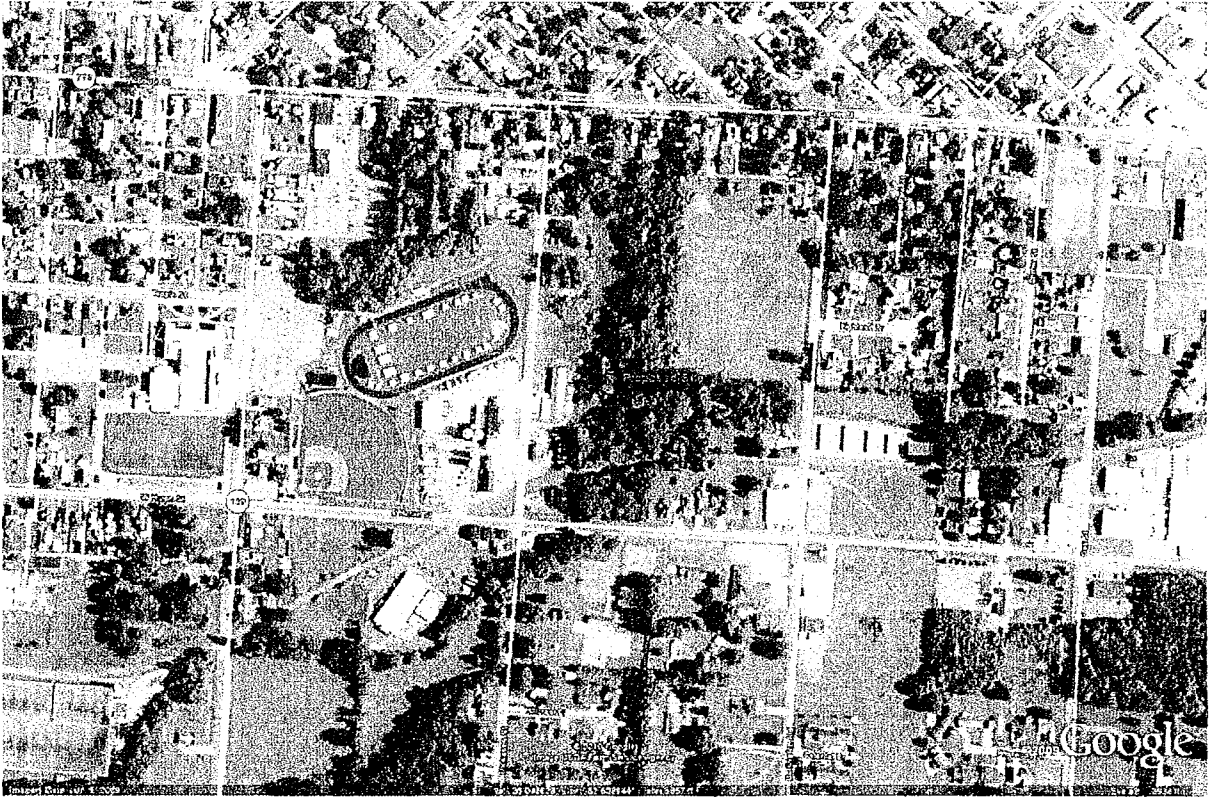
Proposed Wireless Communications Facility

Jackson, Ohio



Prepared By:

Derek McGrew



## Introduction

Open Range Communications is a federally funded, FCC licensed broadband wireless Internet services provider whose primary focus is delivering simply easier wireless high-speed Internet and voice services to hundreds of un-served and underserved communities across America.

Within the next five years, Open Range intends to serve over 500 communities, making its services available to approximately six million people. Open Range's 4G wireless broadband network solutions will connect customers through licensed spectrum, enabling communities to improve safety, economic growth, education, and quality of life and remain competitive in the age of global communications.

Open Range Communications is the initial user of this Wireless Communications Facility and has chosen Jackson, Ohio as one of their markets that they desire to serve.

Horvath Communications is the co-applicant and the owner of the facility itself. Horvath Communications is in business to provide high quality wireless communications facilities to its customers, market those facilities to all wireless providers, and lease space on the facility to enhance wireless coverage within the area of the facility.

Open Range was not able to find another facility to install their antennas within the search area that was required to bring the maximum coverage. If maximum coverage is not achieved with one site, additional sites would be needed. Open Range reviewed the City water tank for its initial design, but was unable to provide point to point communications due to the water tank's height as illustrated in the following pages. When there are no suitable structures in an area that Open Range Communications is seeking to provide service, Open Range and Horvath partner into an agreement where Horvath provides the facility for Open Range and Open Range installs their equipment onto the facility.

The property chosen for this facility was chosen due to its zone, use and nature, and its ability to blend in with the surrounding environment. The facility would be naturally screened on three sides by trees, and so the first 50-60 feet of the facility wouldn't be visible. The property was also chosen due to its location, which will minimize the necessary facilities for Open Range Communications.

Although Wireless Communications Facilities are not specifically mentioned in any of your zoning districts, these types of applications are most suitable in the Industrial District, which is the district in which this facility is located. The facility meets or exceeds all of your setback requirements with the understanding that Horvath Communications is willing to provide landscaping per the Zoning Enforcement Officer and/or the Board's request in order to comply with the Ordinance and remain harmonious with the surrounding

environment. At this time, the landscaping has not been shown on the site plan due to the natural screening on three sides and the west side due to the building in-between the facility and the road, as well as the Ordinance stating that landscaping may not be in the front yard, per the Design Standards. If desired, Horvath will place landscaping on the west side of the facility. This can be discussed in the meeting.

I have included on the front page of your package a photo of a site that would look similar to the one proposed in this proposal.

Open Range Communications and Horvath Communications appreciate your time in reviewing this application and requests zoning approval of this facility.

# open range

Dear County Zoning Board

OPEN RANGE COMMUNICATIONS INC. (Open Range) is deploying a WiMax 801.16e wireless data system licensed in the ATC frequency band. This frequency band covers from 2.4835 GHz to 2.4950 GHz.

We have done an extensive analysis of the Jackson OH market that has included both the proposed new facility and the existing water tank located at the intersection of Church St. and Court St. Open Range prefers by far using existing structures since these generally avoid the process of building new towers and is usually allows us to bring a site on line much faster. In this case we have analyzed the coverage and connectivity for water tank and found that we had very similar WiMax coverage to the proposed tower but our microwave links did not work. The microwave links are essential to carry our high bandwidth traffic back to our core network. Figure 1 below shows the path from the water tank to our repeater site. As shown in this diagram the microwave signal does not clear the trees in the path.

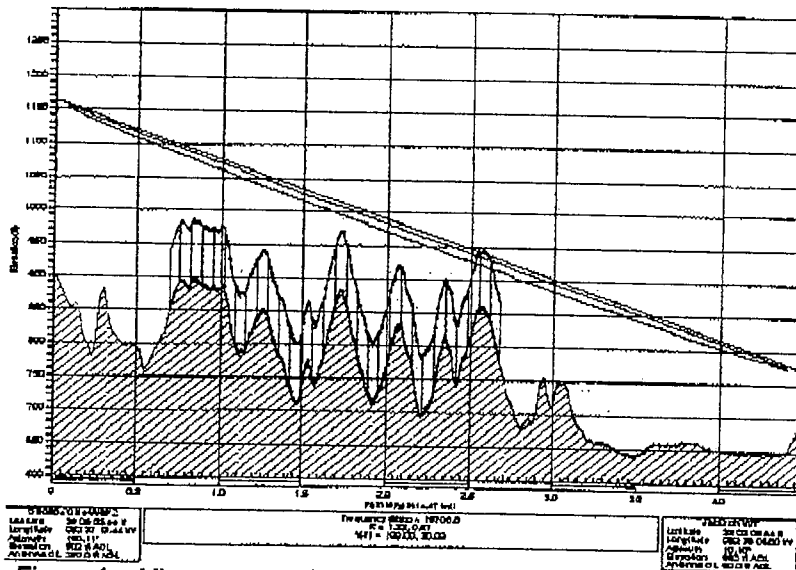


Figure 1 – Microwave study water tank (to the right) to repeater site.



Figure 2 shows the path from the proposed tower to our repeater site which clears the trees and provides the needed connectivity.

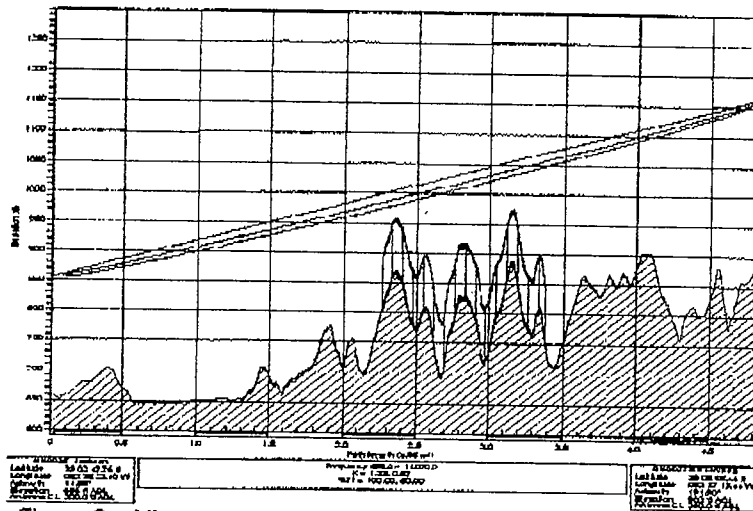
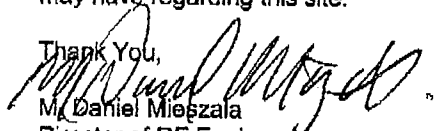


Figure 2 – Microwave study proposed tower (on left) to repeater site

We appreciate your consideration in the matter and are open to answer an questions that you may have regarding this site.

Thank You,  
  
 M. Daniel Mieszala  
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