

JACKSON CITY COUNCIL
Regular Session
November 28, 2011
7:00 p.m.

Call to Order..... President Speakman
Pledge of Allegiance..... Mrs. Jones
Opening Prayer..... Mr. Brown

Roll Call

Approval of Minutes

November 14, 2011

VISITORS

COMMITTEE REPORTS:

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

ORDINANCES AND RESOLUTIONS

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

ADJOURN

JACKSON CITY COUNCIL

Minutes from
November 14, 2011
7:00 p.m.
Regular Session

Jackson City Council met in regular session on Monday, November 14, 2011 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. Smith. The Prayer was given, led by Mr. Brown.

A roll call was taken as follows:

- Mr. Kitchen - present
- Mr. Brown - present
- Mr. Elliott - present
- Mr. Smith - present
- Mrs. Jones - present
- Mr. Foster - present
- Mrs. Colby - present

Mr. Smith made a motion to approve the minutes from October 24, 2011 regular session, seconded by Mrs. Colby. In a voice vote, all members agreed.

VISITORS

COMMITTEE REPORTS

UTILITY

Mr. Brown stated the committee met on November 1, 2011 at 6:30 p.m. to discuss out of city trash collection, we need more information and will hold another meeting to discuss. In regards to delinquencies, there is no issue as a committee.

BUDGET & FINANCE

Mr. Kitchen stated the committee met on October 24, 2011 at 6:00 p.m., all members were present, basic outline, and there are serious concerns with cost, equipment, out of city trash, increased cost, the department heads will review and comeback. Next meeting will be Monday, November 28, 2011 at 6:00 p.m.

POLICE, FIRE & TRAFFIC - No Report

SERVICE - No Report

RAILROAD - No Report

BUILDING/RECREATION - No Report

CITY AUDITOR

Mr. Humphreys requested that the last meeting in December be moved from December 26, 2011 to December 29, 2011 this gives the Auditor's office time to everything up to date. Mrs. Colby made a motion to move, seconded by Mrs. Jones. In a voice vote, all members agreed.

LAW DIRECTOR

MAYOR

Mayor Heath stated the annual audit was released, very good report, very pleased; the reason is total cooperation of the Auditor, Administration and Supervisors. Mr. Humphreys replied same as last year.

SAFETY/SERVICE DIRECTOR

Mr. Sheward discussed a letter from Mike Sheppard for water/garbage, see attached. Mr. Brown asked the proximity to others. Mr. Sheward stated with this new service will make a total of three in that location. Mr. Smith made a motion to approve, seconded by Mr. Kitchen. In a voice vote, all members agreed.

Mr. Sheward stated you should have all received a letter from Mr. Kirby on conflict of interest, done at Mr. Sheward's request, two members own/operate businesses that do business with the city. This method by which the business request waiver or immunity, ask in advance, please pursue. Mr. Sheward requested a short executive session to discuss the consideration of purchasing property. Mrs. Colby stated ethics, must be checked with each individual purchase. Mayor Heath questioned each one. Mrs. Colby stated in the past it was a conflict. Mr. Kirby stated individual can provide hypothetical scenario, only one opinion is needed, this is council/employee protection.

ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 57-11

AN ORDINANCE APPROVING ADDITIONAL APPROPRIATIONS IN THE GARBAGE FUND:
HEALTH INSURANCE AND GARBAGE UTILITY OFFICE FUND: HEATH INSURANCE FUNDS
AND DECLARING AN EMERGENCY.

Third Reading

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

Mr. Kitchen - yes
Mr. Brown - yes
Mr. Elliott - yes
Mr. Smith - yes
Mrs. Jones - yes
Mr. Foster - yes
Mrs. Colby - yes

ORDINANCE NO. 57-11 DULY ADOPTED

ORDINANCE NO. 58-11

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

Third Reading

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

Mr. Kitchen - yes
Mr. Brown - yes
Mr. Elliott - yes
Mr. Smith - yes
Mrs. Jones - yes
Mr. Foster - yes
Mrs. Colby - yes

ORDINANCE NO. 58-11 DULY ADOPTED

ORDINANCE NO. 59-11

AN ORDINANCE CREATING THE WWTP EFFLUENT MGMT. SYSTEM FUND AND ESTABLISHING
APPROPRIATIONS AND DECLARING AN EMERGENCY.

Third Reading

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

Mr. Kitchen - yes
Mr. Brown - yes
Mr. Elliott - yes
Mr. Smith - yes
Mrs. Jones - yes
Mr. Foster - yes
Mrs. Colby - yes

ORDINANCE NO. 59-11 DULY ADOPTED

ORDINANCE NO. 60-11

AN ORDINANCE TRANSFERRING APPROPRIATIONS FROM THE SEWER FUND: TRANSFER OUT
TO WWTP EFFLUENT MGMT. SYSTEM FUND: TRANSFER IN FUND.

Third Reading

Mr. Smith made a motion to amend the ordinance, by adding an emergency clause, seconded by Mr.
Brown. In a voice vote, all members agreed.

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

Mr. Kitchen - yes

Mr. Brown - yes
Mr. Elliott - yes
Mr. Smith - yes
Mrs. Jones - yes
Mr. Foster - yes
Mrs. Colby - yes

ORDINANCE NO. 60-11 DULY ADOPTED

ORDINANCE NO. 61-11

AN ORDINANCE CREATING THE 2011 COMMUNITY HOUSING IMPROVEMENT PROGRAM
FUND AND ESTABLISHING APPROPRIATIONS AND DECLARING AN EMERGENCY.

Third Reading

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

Mr. Kitchen - yes
Mr. Brown - yes
Mr. Elliott - yes
Mr. Smith - yes
Mrs. Jones - yes
Mr. Foster - yes
Mrs. Colby - yes

ORDINANCE NO. 61-11 DULY ADOPTED

ORDINANCE NO. 66-11

AN ORDINANCE OF THE LEGASLATIVE AUTHORITY OF THE CITY OF JACKSON, OHIO TO
ACCEPT THE BID OF R&R CONSTRUCITON OF JACKSON, OHIO IN AN AMOUNT NOT TO
EXCEED \$88,267.00 FOR THE CONSTRUCTION OF TRANSFORMER STORAGE DOCKS AS IT WAS
THE LOWEST AND BEST RESPONSIVE BID SUBMITTED AND DECLARING AN EMERGENCY.

Second Reading

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

Mr. Kitchen - yes
Mr. Brown - yes
Mr. Elliott - yes
Mr. Smith - yes
Mrs. Jones - yes
Mr. Foster - yes
Mrs. Colby - no

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

Mr. Kitchen - yes
Mr. Brown - yes
Mr. Elliott - yes
Mr. Smith - yes
Mrs. Jones - yes
Mr. Foster - yes
Mrs. Colby - no

ORDINANCE NO. 66-11 DULY ADOPTED

ORDINANCE NO. 70-11

AN ORDINANCE AUTHORIZING A WAGE INCREASE FOR THE POSITIONS OF CHIEF OF POLICE AND ASSISTANT CHIEF OF POLICE AND DECLARING AN EMERGENCY.

Second Reading

Mr. Smith asked if the administration if this raise was proposed by the administration or by the Chief and have job performance evaluations been done? Mr. Sheward replied they have been evaluated not in relation to this, the Assistant Chief is performed by the Chief and this was proposed by the administration. Mayor Heath stated the last time they were not given, ran into a legal question. Mr. Smith stated it had been six years. Mr. Brown stated they used to receive raises when others did, they are the only two not in the contract. No raise for six years, supervisor union issue, this has been a past practice to increase with unions.

CORRESPONDENCE

OLD BUSINESS


NEW BUSINESS

Mr. Smith requested an executive session to discuss possible land acquisition, requesting the auditor, clerk and administration remain, seconded by Mr. Foster. In a roll call vote, all members agreed. Council moved to executive session at 7:20 p.m.

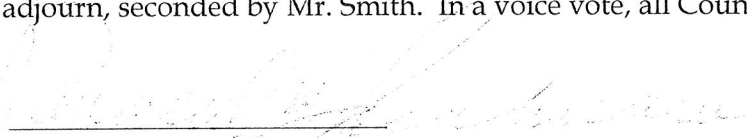
Mr. Smith made a motion to return to regular session, seconded by Mr. Brown. In a voice vote, all members agreed. Council returned to regular session at 7:27 p.m.

ADJOURN

Mrs. Jones made a motion to adjourn, seconded by Mr. Smith. In a voice vote, all Council agreed. Council adjourned at 7:27 p.m.



Tera Brown
Clerk
Date 11-28-11



Ron Speakman
Council President
Date 11-28-11

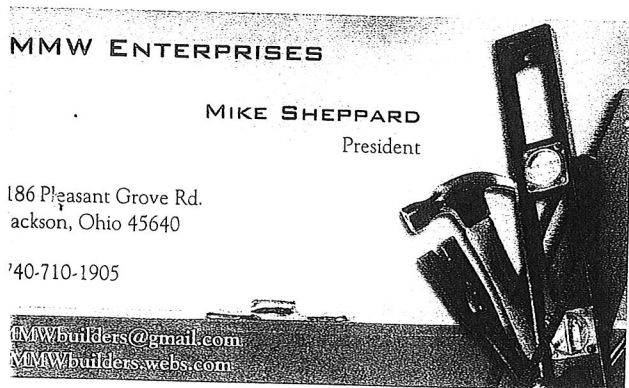
To Jackson City Council,

10/31/2011

MMW Enterprises is currently building a single dwelling home at 182 Pleasant Grove Rd. We would like permission to be included in the garbage route as well as a water tap. There is currently a line that goes past the driveway, and are existing customers.

Thank you for the consideration and look forward to using your services as this home is already sold.

Regards,
Mike Sheppard
MMW Enterprises



VINTON / JACKSON COUNTIES

PUBLIC NOTICE

The following applications and/or verified complaints were received, and the following draft, proposed and final actions were issued, by the Ohio Environmental Protection Agency (Ohio EPA) last week. The complete public notice including additional instructions for submitting comments, requesting information or a public hearing, or filing an appeal may be obtained at: <http://www.epa.ohio.gov/actions.aspx> or Hearing Clerk, Ohio EPA, 50 W. Town St. P.O. Box 1049, Columbus, Ohio 43216. Ph: 614-644-2129 email: HClerk@epa.state.oh.us

FINAL ISSUANCE OF CERTIFICATION

SANDS HILL MINING, LLC

38701 STATE ROUTE 160

HAMDEN, OH 45634

OH ACTION DATE : 10/20/2011

RECEIVING WATERS: UT TO RICH RUN

FACILITY DESCRIPTION: 401 CERTIFICATION

IDENTIFICATION NO. : 113752-A

This final action not preceded by proposed action and is appealable to ERAC. Grant of Section 401 Water Quality Certification for a project to surface mine and reclaim a 307-acre site known as the Rockcamp mining area.

FINAL ISSUANCE OF CERTIFICATION

SANDS HILL MINING, LLC

38701 STATE ROUTE 160

HAMDEN, OH 45634

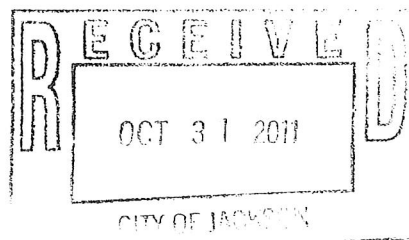
OH ACTION DATE : 10/20/2011

RECEIVING WATERS: UT TO RICH RUN

FACILITY DESCRIPTION: 401 CERTIFICATION

IDENTIFICATION NO. : 113752-B

This final action not preceded by proposed action and is appealable to ERAC. Grant of Section 401 Water Quality Certification for a project to surface mine and reclaim a 307-acre site known as the Rockcamp mining area.



JOSEPH D. KIRBY
City Attorney for Jackson, Ohio
227 E. Main Street
Jackson, Ohio 45640

Telephone 740-286-3735
Facsimile 740-288-2161

E-mail joe@josephdkirby.com
www.josephdkirby.com

October 31, 2011

Randy Heath
Mayor of the City of Jackson
145 Broadway Street
Jackson, Ohio 45640

And

Council Members
Jackson City Council
145 Broadway Street
Jackson, Ohio 45640

Dear Mayor and Jackson City Council Members;

I have been asked to provide a summary or overview of the conflict of interest laws in Ohio as they may relate to the City of Jackson. In Ohio, it is unlawful to hold an interest in a public contract if there is a conflict of interest. This law forbids a number of acts with respect to public contract between elected or appointed officers, employees or agents of this City when such an act would constitute a conflict of interest.

The conflict of interest statute has been codified and made a criminal act of the Ohio Revised Code at R.C. Sec 2921.42. These prohibited acts include:

- 1.) Authorizing or employing the authority or influence of the offender's office in securing authorization of a public contract in which the offender or member of his family or a business associate has an interest;
- 2.) Authorizing or employing the authority or influence of the offender's office in securing the investment of public funds in any security with respect to which the offender or any member of his family or any business associate either has

an interest, or is an underwriter, or receives any brokerage, origination, or service fee;

- 3.) During and within one year after the offender's term of office, occupying any position of profit in the prosecution of a public contract authorized by the offender or by any legislative body, commission, or board which he was a member at the time of authorization, unless the contract was left by competitive bidding to the lowest and best bidder;
- 4.) Having an interest in the profits or benefits of a public contract by or for the use of the political subdivision or other governmental instrumentality with which the offender is connected; or
- 5.) Having an interest in the profits or benefits of a public contract that is not let by competitive bidding and that involves more than \$150.00.

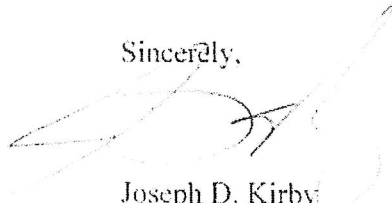
There are certain exceptions to the above provisions. For example, in the absence of bribery, fraud, or other bad acts, an ownership interest in a business is generally acceptable if less than 5% AND the interest is fully disclosed to the City. There may also be an exception when the issue involves necessary supplies or services to the City when the supplies or services are unobtainable elsewhere at the same or lower costs, or, the providing of supplies or services is part of a continuous course of dealing that has been established before the public server became associated with the City. This is also permitted when the treatment accorded the City is preferential or the same as accorded others in similar transactions by that public official. Finally, any such transaction must be conducted at arms length with full disclosure to the City and, the public official may take no part in the deliberations or decision of the City with respect any contract.

It is my opinion that the requirement for policing any contract of interest rest with each public employee or official. The City should, however, be on guard for such violations. The penalty for violating the conflict of interest law in Ohio may be a fourth degree felony or, first degree misdemeanor, depending on the violation. Given the serious penalties involved, each public employee official or agent of the City should be weary in avoiding conflict of interest.

In the area of conflict of interest the State of Ohio is willing to give an opinion to any public employee or official wishing to have one. When such an opinion is followed as obtained it will act as immunity to a charge. Therefore, if there is ever a question, you would be well advised to immediately contact the Ohio Ethics Commission and request an advisory opinion. Such opinion should be sought BEFORE any action is taken on a public contract or other matter of potential conflict. When requesting an advisory opinion you will be asked to provide a hypothetical of the perspective conduct.

If you have any questions concerning any matters contained herein, please feel free to contact me. My office is willing to assist any member in contacting the Ohio Ethics Commission and obtaining an advisory opinion.

Sincerely,

A handwritten signature in black ink, appearing to read 'JDK', with a long, sweeping flourish extending upwards and to the right.

Joseph D. Kirby
Attorney at Law

JDK/mh
Cc: Bill Sheward
City Auditor