

JACKSON CITY COUNCIL  
Regular Session  
October 26, 2009  
7:00 p.m.

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

Roll Call

Approval of Minutes

September 29, 2009

VISITORS

COMMITTEE REPORTS:

- Utility - Eric Brown, Troy Adams, and Curt Wiggins
- Budget & Finance - Troy Adams, Curt Wiggins, and Tom Evans
- Police, Fire & Traffic - Tom Evans, Eric Brown, and Troy Adams
- Service - Randey Smith, Cary Brown and Jeff Elliott
- Railroad - Curt Wiggins, Randey Smith and Tom Evans
- Building/Recreation - Randey Smith, Cary Brown and Jeff Elliott
- City Auditor
- Law Director
- Mayor
- Service/Safety Director

ORDINANCES AND RESOLUTIONS

CORRESPONDENCE

OLD BUSINESS

NEW BUSINESS

ADJOURN

JACKSON CITY COUNCIL

*Minutes from*  
September 29, 2009  
7:00 p.m.  
Regular Session

Jackson City Council met in regular session on Monday, September 29, 2009 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. Elliott.

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 – absent

Mr. Adams made a motion to excuse Mr. Wiggins, seconded by Mr. Elliott. In a voice vote, all Council agreed.

Mr. Smith made a motion to approve the minutes of September 14, 2009 regular session seconded by Mr. Evans. In a voice vote, all Council agreed.

**VISITORS**

**COMMITTEE REPORTS**

**UTILITY**

Mr. Eric Brown reported on the newly established rates from Rumpke and the impact on the city, see attached calculation sheet. He reported that 2011 the overall increases will be offset by the newly signed franchise fee agreement signed by Pike Sanitation at a rate of \$10,000 per year. Mr. Smith asked if this were a yearly renewal with Pike Sanitation. Mr. Eric Brown replied yes. Mr. Smith asked what if they don't sign, and then we will have a shortfall. Mr. Eric Brown stated he was sure of the impact, these numbers were not based on revenue, only cost. Mr. Smith stated if Pike Sanitation does not sign we will see an increase in rates. Further stating he would like to see figures for revenue collected. Mr. Speakman stated he could view his monthly auditor's report and get those figures.

**BUDGET & FINANCE – No report**

**POLICE, FIRE & TRAFFIC**

Mr. Evans reported that the committee met last Thursday to discuss the proposed cul de sac on Yellow Delicious Drive, the committee recommends that this go before full Council with a public hearing to be conducted. Mr. Speakman asked if we needed 30 day notice. Mr. Detty replied yes. The public hearing is scheduled prior to the regular Council meeting on November 9, 2009 at 6:30 p.m.

**SERVICE – No Report**

**RAILROAD - No report**

**BUILDING/RECREATION – No report**

**CITY AUDITOR**

Mr. Humphreys passed out letters, see attached. He explained the letter addressed to National City Bank, concerning the checking accounts, all funds are being withdrawn. He stated they were not in compliance with ORC. The investment board met and all parties were invited, NCB did not attend, the committee agreed to transfer all funds to Wesbanco. The second letter was in regards to the Board of Control, in regards to the number of members on the board of control. He stated

that Mr. Detty did not see a problem bringing this to Council's attention. Mr. Humphreys stated that it is almost October and there have been no meetings to start on the budget, we need to have a temporary budget soon.

LAW DIRECTOR

Mr. Detty gave his report, see attached.

MAYOR

Mayor Heath stated tonight would be the third reading on the water rate increase, the project has now risen to \$1.7 million. He stated they had met with the OWDA, discussing Mr. Cannon's report. The rate request is reasonable, revenues must meet expenditures. This should ensure the loan request. If this is not passed we could lose both the grant and loan. We will still be below the national standard and state average. All communities have hardships. The OWDA is ensuring that we can repay the loan. The low bidder has removed his bid, now this has to be rebid. The EPA did state we should be able to secure enough loan funding to cover the increase. If this does not pass, the stimulus funds are gone and we are left with two options: borrow the money from a lender costing the city more than \$2 million or the EPA will forcibly take over and set rates. This is a more balanced structure, with two goals being met. The rate structure with the annual automatic increase that allows revenue to cover expenses and maintaining a fund balance within 5 years. Mr. Woltz had given a comparison, increase to the cost of two and a half gallons of milk. Further stating that in 2013 the minimum rate will still be 50% of what Jackson County Water currently charges. He stated they are working on rate structures in all utilities, but the water must be able to stand alone. Mr. Woltz stated that layoffs were not an option, we would be under the minimum operational lever, and even if all employees were laid off, we would still not meet expense this year. He believes we need to pass and residents and business of all the information, we cannot afford not to do. Mr. Smith asked Council, has anyone seen these letters before. This is the first time we've seen, we are making a big decision, and it takes too long to get information, this is the third reading. Mayor Heath stated they have nothing in writing from the EPA, this has not been a secret, the one letter is from 1996, look at them, and base this on a judgment vote. Mr. Smith stated we have asked repeatedly for this information, we wouldn't be in this position if we took action last year. Mayor Heath stated Mr. Sheward said 18 months ago we need to review, tried over a year ago for a 12% increase, no one would adopt.

SAFETY/SERVICE DIRECTOR

Mr. Sheward discussed the Bellisio spur, this is out for bid, we will open next week, and we hope to have this repaired before winter sets in. There are lots of issues with the stimulus funds, we had a late start. The mainline repair bids will be opened in a few weeks.

ORDINANCES AND RESOLUTIONS

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ORDINANCE NO. 69-09

AN ORDINANCE TRANSFERRING APPROPRIATIONS, AND DECLARING AN EMERGENCY.

Third Reading

ORDINANCE DIES DUE TO LACK OF MOTION TO REMOVE FROM THE TABLE.

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ORDINANCE NO. 71-09

AN ORDINANCE TO MOVE APPROPRIATIONS.

Third Reading

ORDINANCE DIES DUE TO LACK OF MOTION TO REMOVE FROM THE TABLE.

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ORDINANCE NO. 74-09

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.

Third Reading

In a voice 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 – absent

ORDINANCE NO. 74-09 DULY ADOPTED

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ORDINANCE NO. 75-09

AN ORDINANCE AMENDING JACKSON CODIFIED ORDINANCE SECTION 929.07 – WATER RATES, AND  
DECLARING AN EMERGENCY.

Third Reading

Mr. Eric Brown made a motion to amend the ordinance adding a new calculation sheet, see attached, seconded by Mr. Adams.  
In a voice vote, all Council agreed.

In a motion to adopt the ordinance as amended, Council voted as follows:

Mr. Evans – yes  
Mr. Adams – yes  
Mr. Eric Brown – yes  
Mr. Smith – no  
Mr. Cary Brown – no  
Mr. Elliott – yes  
Mr. Wiggins – absent

ORDINANCE NO. 75-09 DULY ADOPTED AS AMENDED

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ORDINANCE NO. 80-09

IT IS PROPOSED, WITHIN THE CITY OF JACKSON, ON SR776 TO RESURFACE THE PAVEMENT FROM THE  
WEST CORPORATION LIMIT NORTH TO THE INTERSECTION OF SR139.

Second Reading

Mr. Adams made a motion to suspend the rules, seconded by Mr. Evans. 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 – absent

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 – absent

ORDINANCE NO. 80-09 DULY ADOPTED

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ORDINANCE NO. 81-09

AN ORDINANCE TO MOVE APPROPRIATIONS, AND DECLARING AN EMERGENCY.

First Reading

Mr. Evans 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. Elliott. 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 -- absent

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 -- no  
Mr. Cary Brown -- no  
Mr. Elliott -- yes  
Mr. Wiggins -- absent

ORDINANCE NO. 81-09 DULY ADOPTED

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ORDINANCE NO. 82-09

AN ORDINANCE AUTHORIZING THE JACKSON CITY AUDITOR TO MAKE REIMBURSEMENTS FOR THE YEAR 2008 IN ACCORDANCE WITH THE MAXXIMUS COST ALLOCATION STUDY, AND DECLARING AN EMERGENCY.

First Reading

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

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RESOLUTION NO. 19-09

A RESOLUTION AUTHORIZING THE MAYOR, OR HIS DESIGNATED REPRESENTATIVE, TO APPLY FOR, ACCEPT, AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT ON BEHALF OF THE CITY OF JACKSON FOR THE CONSTRUCTION OF DRINKING WATER FACILITIES; AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN.

First Reading

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

Mr. Eric Brown made a motion to suspend the rules, seconded by Mr. Adams. 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 – absent

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 – no  
Mr. Cary Brown – no  
Mr. Elliott – yes  
Mr. Wiggins – absent

RESOLUTION NO. 19-09 DULY ADOPTED

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RESOLUTION NO. 20-09

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF JACKSON, OR HIS DESIGNATED REPRESENTATIVE, TO FILE AN APPLICATION, AND EXECUTE ANY AND ALL AGREEMENTS OR DOCUMENTS, WITH OHIO VALLEY REGIONAL DEVELOPMENT COMMISSION (OVRDC), AND DECLARING AN EMERGENCY.

First Reading

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

Mr. Sheward stated this was a grant to supplement the expenses for the water project.

Mr. Evans made a motion to suspend the rules, seconded by Mr. Eric Brown. 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 – absent

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 – no  
Mr. Elliott – yes  
Mr. Wiggins – absent

RESOLUTION NO. 20-09 DULY ADOPTED

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Mr. Humphreys stated that Ordinance 81-09 will not take effect for 30 days; there is not enough money to pay wages.

## CORRESPONDENCE

## OLD BUSINESS

The clerk reported that Ordinance No. 68-09 was vetoed by the Mayor on September 21, 2009. This will be presented at the next regular Council meeting.

Mr. Cary Brown made a motion that any and all elected officials and contractual employees be randomly drug tested, this was seconded by Mr. Eric Brown. Mr. Eric Brown asked if this could be done. Mr. Detty stated he would have to research. Mr. Detty stated he and Mr. Humphreys had already taken the random drug tests. Mr. Smith stated we are on the list

to be given, we have never been pulled. Mr. Speakman stated this is safety/sensitive timing, must proceed immediately and that could be a problem. Mayor Heath stated contractual could mean a lot of things. Mr. Adams stated the average cost is about \$50.00. Mr. Sheward stated more like \$75.00 each. Mr. Sheward stated he too had taken a test. Mr. Detty stated he thinks that all names are in the hat, even volunteers at the request of Worker's Compensation. Mr. Evans stated before passing we need a legal opinion. Mr. Cary Brown stated no one ever gives an answer, just gets shipped down the line. Mr. Eric Brown asked if it could be found out if they are included. Mr. Evans stated say you take the test and fail, what's the penalty, no disciplinary action can be taken; we are not covered in a union. Make public to embarrass, if someone is taking drugs they are obviously beyond embarrassment. Mr. Speakman requested that the motion and second be withdrawn until receiving a legal opinion. Mr. Eric Brown with his second and Mr. Cary Brown withdrew his motion until receiving a legal opinion. Mr. Eric Brown made a motion to direct Mr. Detty for a legal opinion, seconded by Mr. Smith. Mr. Detty asked if council would be scheduling a meeting to take the place of the Holiday. Mayor Heath said it was not necessary, if any matters need attention, a special meeting can be called.

**NEW BUSINESS**

Mr. Humphreys asked for God's speed and good grace for Mr. Sheward and Kathy in regards to upcoming surgery. Mr. Speakman thanked council for the flowers.

**ADJOURN**

Mr. Adams made a motion to adjourn, seconded by Mr. Eric Brown. In a voice vote, all Council agreed. Council adjourned at 7:50 p.m.

Tera Brown  
Tera Brown  
Clerk  
Date 10-26-09

Ron Speakman  
Ron Speakman  
Council President  
Date 10/26/09

# JOHN L. "JACK" DETTY

Jackson City Law Director

145 Broadway Street

Jackson, Ohio 45640

Phone: 740-286-2201

Fax: 740-286-3492

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

*Jackson City Council*

*September 28, 2009*

## *REPORT OF THE LAW DIRECTOR*

The following is the Report of the Law Director:

### • **ORDINANCES AND RESOLUTIONS - NOTES**

- Ordinance 81-09 is an ordinance to correct scrivener's errors which were present in Ordinance 79-09, which was passed at the last Council meeting. As you will recall Ordinance 79-09 was an ordinance to move appropriations for the General Fund – Administrative Services Dept. There is no changes to the amounts involved, and the errors were some numbers were wrong in a few of the line items. A colored copy of the ordinance is in your packets to show the deletions and changes. Additions are in **BLUE** and deletions are in **RED**.
- Ordinance 82-09 was prepared at the request of the Auditor and authorizes reimbursements in accordance with the Maximus study. The Auditor's Office can provide more information concerning this matter.
- Resolution 19-09 authorizes the Mayor or his designated representative to enter into a Water Supply Revolving Loan Account.
- Resolution 20-09 authorizes the Mayor or his designated representative to make application to obtain financing for projects through the Ohio Valley Regional Development Commission.

### • **RENTS AND RIGHT OF WAYS ORDINANCE**

- Still no response for the State Auditor. I anticipate the Declaratory Judgment complaint will be completed and filed late this week or early next week.

### • **AUTHORITY RE POLICE DEPARTMENT**

- An opinion is being issued on this issue.



- **COLLECTIONS**

- Under our agreement with Ohio Valley Recovery Services (OVRs) on the collection of delinquent utility accounts, OVRs receives 40% of any amounts collected, whether the delinquent accounts are collected by the City or OVRs.
  - This would only include accounts turned over to OVRs by the Utility Department.

*As always, 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*

*City of Jackson*

Phone: 740-286-1112

Fax: 740-286-8788

E-Mail: [jdetty@jacksonohio.us](mailto:jdetty@jacksonohio.us)

*John L. "Jack" Detty*

Law Director

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## *Memorandum*

TO: Randy Heath, Mayor  
William Sheward, Safety/Service  
Director  
Jim Humphreys, City Auditor  
Ronald Speakman, Council President  
Tom Evans, Council Member at Large  
Troy Adams, Council Member at Large  
Eric Brown, Council Member at Large  
Randy Smith, 1<sup>st</sup> Ward Council  
Member  
Cary Brown, 2<sup>nd</sup> Ward Council Member  
Jeff Elliott, 3<sup>rd</sup> Ward Council Member  
Curt Wiggins, 4<sup>th</sup> Ward Council  
Member

FROM: John L. "Jack" Detty  
Cc: Tera King, City Council Clerk  
DATE: September 28, 2009  
SUBJECT: Police Department – Safety Director

*Privileged and Confidential Communication*

Dear Administration and Council Members:

At the request of City Council I have conducted research on the authority of a Police Chief and the Safety Director in the direction of operations within a City's police department.

Please see the attached summary of the research.

Sincerely,

John L. "Jack" Detty  
Jackson City Law Director

## *Summary of Research Authority of Public Safety Director and Chief of Police*

### ***ISSUE PRESENTED:***

What authority does the Director of Public Safety have over the Police Chief in the conduct of the police department.

### ***BACKGROUND INFORMATION:***

Periodically the issue of the respective authorities of the Director of Public Safety and the Chief of Police arise in the area of the direction and control of officers within the police department.

This summary sets forth some details as to the statutory and case law as to the respective authorities of the Director of Public Safety and the Chief of Police.

### ***REVIEW OF LAW:***

Section 737.06 of the Ohio Revised Code reads as follows:

The chief of police shall have exclusive control of the stationing and transfer of all patrolmen, auxiliary police officers, and other officers and employees in the police department, and police auxiliary unit, under such general rules and regulations as the director of public safety prescribes.

Based upon the language of this section of the Ohio Revised Code the issue becomes one of interpreting the phrase “\* \* \* under such general rules and regulations as the director of public safety prescribes,” exactly what authority or control does the Safety Director have over the Chief of Police in directing the operations of the police department.

The Ohio Eighth District Court of Appeals addressed a somewhat similar issue involving a charter city in the case of *Dease v McNamara* (October 18, 2001), 2001 WL 1268626. In that case the Safety Director of the City of Brook Park issued directives to the Chief of Police concerning the stationing of officers. Although Brook Park is a charter city, the charter provisions involved in this matter are similar to the Ohio Revised Code. The Court held that the Safety Director’s memo concerning the assignment of a specific officer to the City’s K-9 Unit was beyond the scope of authority and power of the Safety Director. The Court also found the Safety Director acted

beyond the scope of the law in issuing a directive to the Chief of Police instructing the Chief to schedule lieutenants to supervisory duties on regular shifts. The Court also held the Safety Director had no power to order the Chief of Police to personally assist the Safety Director with certain dispatch and clerical duties.

In the case of *State ex. rel. Fraternal Order of Police v DePaola* (August 18, 1982), 1982 WL 2719 (Ohio App. 9 Dist.), the Ninth District Court of Appeals held that the safety director could “ \* \* \* regulate police department spending and to review crime statistics, police logs and daily reports.” The Court found that in reviewing the department spending and reviewing the logs and statistics the director of public safety was acting in good faith and was not taking such actions to harass the police chief or officers.

It appears from the case law interpreting the Ohio Revised Code that the Chief of Police of a city has broad powers in running his department as the Chief sees fit. The Safety Director, in my opinion, cannot direct the stationing of officers.

# City of Jackson

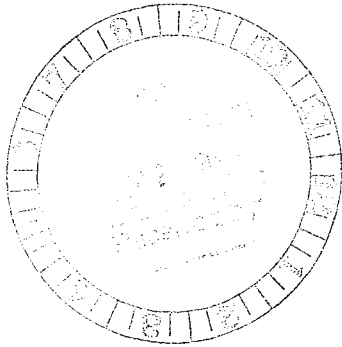
Phone: 740-286-1112

Fax: 740-286-8788

E-Mail: [jdetty@jacksonohio.us](mailto:jdetty@jacksonohio.us)

*John L. "Jack" Detty*

Law Director



TO: Jim Humphreys, City Auditor  
Wendy Sexton, Dep. Auditor  
FROM: John L. "Jack" Detty  
Cc: William Sheward, Safety/Service  
Director  
Randy Heath, Mayor  
DATE: September 23, 2009  
SUBJECT: Board of Control – Membership

*Privileged and Confidential Attorney/Client Communication*

Dear Jim:

Pursuant to the request from your office I have researched the membership of a City Board of Control in situations where the City Safety Director and the City Service Director have been merged into one position.

The City of Jackson has opted to merge the positions of Safety Director and Service Director into one position, the Safety/Service Director. The Board of Control, by statute, is to be composed of the Mayor, Director of Public Service, and Director of Public Safety. Your specific question is when the Safety Director and Service Director positions are merged into one position, does the Board of Control have three members or two members.

The legal opinion and case law has determined that "[W]here the departments of public safety and public service have been merged, the board consists of two members and can exercise the same authority as the original three-member board." Section 589, Ohio Jurisprudence 3d, Counties, etc.; *Korn v Donahue*, 13 Ohio App. 2d 46 (2d Dist., Montgomery County 1967).

It is my opinion that the Board of Control in the City of Jackson consists of two members, and the Board has the same power and authority as a regular three-member board. Each member of the City's Board of Control (Mayor and Safety/Service Director) has one vote. The Mayor has one vote and the merged position of Safety/Service Director has one vote.

Hopefully this answers any questions which have been recently raised. If you have any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Detty".

John L. "Jack" Detty  
Jackson City Law Director

YEAR	Period	Tons	Rate	Totals
2006	Jan - Dec	5331.54	22.00/ton	\$ 117,293.88
2007	Jan - Dec	5237.52	22.00/ton	\$ 115,225.44
2008	Jan - Dec	5220.13	22.00/ton	\$ 114,842.86
2009	Jan - July	2854.06	22.00/ton	\$ 62,789.32
	Aug - Dec	2125 est.	23.50/ton	\$ 49,937.50
				\$ 112,726.82
2010	Jan - Jul	2975 est	23.50/ton	\$ 69,912.50
	Aug - Dec	2125 est	24.20/ton	\$ 52,062.50
				\$ 121,975.00
2011	Jan - Jul	2975 est	24.20/ton	\$ 71,995.00
	Aug - Dec	2125 est	24.93/ton	\$ 52,976.25
				\$ 124,971.25
2012	Jan - Jul	2975 est	24.93/ton	\$ 74,166.75

City of Jackson Auditor's Office  
James L. Humphreys, City Auditor  
145 Broadway Street, Jackson, OH 45640  
Phone 740.286.2423  
Fax 740.286.9682

September 25, 2009

National City Bank  
155 E. Broad Street  
Columbus, Ohio 43251-0061


RE: City of Jackson, Ohio  
Master Treasury Management Services Agreement dated January 7, 2008

Dear National City Bank:

Please be advised that the City of Jackson, Ohio is exercising its rights to terminate the Master Treasury Management Services Agreement ("Agreement") entered into between National City Bank and the City of Jackson, Ohio, said agreement dated January 7, 2008.

Pursuant to Paragraph 19 of the Agreement this termination shall take effect "as soon as practicable, but not more than ten (10) calendar days after receipt of \* \* \* " this notice.

Sincerely,

  
James L. Humphreys  
Jackson City Auditor

cc: Tom Perry, Jackson City Auditor  
John L. Detty, Jackson City Law Director  
Scott Fratturelli, National City Bank – Treasury Management Officer for Public Funds, Central OH  
Cheryl J. Schultz, National City Bank – Vice President, Public Funds  
Beverly Purcell, National City Bank – Client Relationship Representative  
National City Bank – Jackson, Ohio





Robin Bissell

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From: Sarah Wallace [sarah.wallace@epa.state.oh.us]  
Sent: Monday, September 28, 2009 1:35 PM  
To: rheath@jacksonohio.us  
Cc: Dan Messerly; rbissell@jacksonohio.us  
Subject: NPDES Violation Letters

Attachments: 2007Response.pdf; 1996Letter.pdf; 2003Letter.pdf; 2007Inspection.pdf; 2007Letter.pdf; \_AVG certification\_.txt



2007Response.pdf  
(230 KB)



1996Letter.pdf  
(220 KB)



2003Letter.pdf  
(225 KB)



2007Inspection.pdf  
(2 MB)



2007Letter.pdf  
(602 KB)



\_AVG  
certification\_.txt (276 KB)

Mayor Heath,

Dan Messerly is the Division of Surface Water representative for the Jackson Water Treatment Plant but he is not in today.

Bottom line is that Ohio Revised Code 6111.03, the Federal Water Pollution Control Act & the Clean Water Act require that all "sewage, industrial waste, or other wastes into the waters of the state" [e.g. backwash water] be permitted under the National Pollution Discharge Elimination System. The water currently being discharged into Buckeye Creek by the City of Jackson WTP does not meet the necessary water quality standards to enable the City to comply with such a permit.

Attached are various letters I've found in their file noting the problem with the Jackson WTP. I've highlighted the relevant text in a few of them. Only the relevant pages of the 2007 inspection letter are included as you should already have that one.

I will be in till 5 if you need anything else although I'm not sure what else I could provide.

Sarah Wallace  
Ohio EPA

# CITY OF JACKSON

145 Broadway Street • Jackson, Ohio 45640-1656  
Phone (740) 286-2201 • [www.jacksonohio.us](http://www.jacksonohio.us) • Fax (740) 286-3492

July 26, 2007

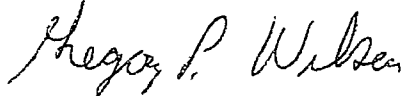
Abbot Stevenson  
Ohio EPA  
Southeast District Office  
2195 Front Street  
Logan, Ohio 43138

Dear Abbot,

Just wanted to let you know in writing that, the City of Jackson has requested engineering proposals for a sludge handling upgrade, at the Water Treatment Plant. It is planned to have monies allocated in the 2008 Budget to perform the upgrade. It is the intent of the City to apply for the necessary NPDES permit within the next few months. Anti-degradation paperwork requirements will also be searched out.

If you have any questions, please feel free to contact me at 740-286-1137.

Sincerely



Gregory P. Wilson  
Director of Water/Wastewater  
City of Jackson, Ohio

cc: File

---

*SHANE A. GOODMAN*  
Mayor  
(740) 286-3224  
[sgoodman@jacksonohio.us](mailto:sgoodman@jacksonohio.us)

*DONOVAN F. WORKMAN*  
Chief of Staff  
(740) 286-3224  
[dworkman@jacksonohio.us](mailto:dworkman@jacksonohio.us)

*STEVEN C. BENSON*  
Director of Public Service  
(740) 286-2201  
[sbenenson@jacksonohio.us](mailto:sbenenson@jacksonohio.us)

*BRYAN E. DAVIS*  
Director of Public Safety  
(740) 286-2201  
[bdavis@jacksonohio.us](mailto:bdavis@jacksonohio.us)



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street  
Logan, Ohio 43138-9031  
(614) 385-8501  
FAX (614) 385-6490

George V. Voinovich  
Governor

October 28, 1996

RE: JACKSON COUNTY  
CITY OF JACKSON  
WATER TREATMENT PLANT

Mr. Ken Welling  
Director of Water/Wastewater  
City of Jackson  
145 Broadway St.  
Jackson, OH 45640

Mr. Welling:

It has come to my attention that there is a potential for unpermitted wastewater discharges at the City of Jackson's Water Treatment Plant. As you know, the Ohio Revised Code 6111 requires anyone discharging pollutants to the waters of the state to first obtain a NPDES discharge permit. It is necessary for you to submit an application for an NPDES permit as soon as possible. For your convenience, I have enclosed the necessary application forms. Please respond, in writing, within 30 days of receipt of this notice.

If you have any questions, please contact me at your convenience.

Sincerely,

Ms. Abbot Stevenson  
Environmental Engineer  
Permits and Enforcement Section  
Division of Surface Water

AS/me



State of Ohio Environmental Protection Agency

Southeast District Office

2195 Front Street  
Logan, OH 43138

TELE: (740) 385-8501 FAX: (740) 385-6490

Bob Taft, Governor  
Christopher Jones, Director

January 3, 2003

Re: Jackson County  
City of Jackson Water Treatment Plant  
Correspondence (PWW)

Mr. Jim Norris, Director of Water/Wastewater  
City of Jackson  
145 Broadway Street  
Jackson, Ohio 45640

Dear Mr. Norris:

It has come to my attention that there is the potential for unpermitted wastewater discharges at the City of Jackson's Water Treatment Plant. As you know, the Ohio Revised Code 6111 requires anyone discharging pollutants to the waters of the state to first obtain a NPDES discharge permit. It is necessary for you to submit an application for an NPDES permit as soon as possible. For your convenience, I have enclosed the necessary application forms. Please respond, in writing, within 30 days of receipt of this notice.

If you have any questions, please contact me at your convenience.

Sincerely,

Ms. Abbot Stevenson  
Environmental Engineer  
Permits and Enforcement Section  
Division of Surface Water

AS/dh

AS file



State of Ohio Environmental Protection Agency

**Southeast District Office**

2195 Front Street  
Logan, Ohio 43138

TELE (740) 385-8501 FAX (740) 385-8490  
www.epa.state.oh.us

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Kortesik, Director

December 18, 2007

**RE: JACKSON COUNTY  
CITY OF JACKSON  
COMMUNITY WATER SYSTEM  
PWS ID# 4000111**

Bill Sheward, Service Director  
City of Jackson  
145 Broadway Street  
Jackson, OH 45640

Dear Mr. Sheward:

On December 5 and 6, 2007, I conducted a sanitary survey of the City of Jackson public water system. Greg Wilson, Ron Aldrich and Steve Riegel were interviewed and the water system was inspected in their presence.

The purpose of this evaluation is to determine the ability of the facility to provide adequate, safe and potable water that meets the requirements of the Ohio Administrative Code. The eight major elements that are generally reviewed during a sanitary survey include: source, treatment, distribution system, finished water storage, pumps/pump facilities and controls, monitoring/reporting/data verification, water system management/operation, and operator compliance with State requirements. General supervision of the operation and maintenance of public water systems is a function of this Agency as set forth in Chapter 6109 of the Ohio Revised Code.

Identified below are regulatory requirements for which action must be taken to return to compliance, and recommendations to address deficiencies that have the potential to cause future violations or contamination. Each of the following sections is the result of findings documented in the Sanitary Survey Evaluation Report, a copy of which is being sent to your operator. We may also be sending your operator additional information (e.g. photographs, sampling results, violation report, etc.) to aid your water system in implementing the necessary corrective actions.

**REQUIREMENTS**

Several required items were noted during the last inspection report dated June 15, 2006, as being deficient. The following is a list of those requirements and a notation as to whether they have or have not been adequately addressed.

1. Ohio Administrative Code 3745-95 required all public water systems have an effective Backflow Prevention Program when it was originally enacted in 1980. It was noted that the City has completed an initial survey of industrial and major

4. OAC 3745-81-01 (FFF) defines a Public Water System as:

"Public water system" or "PWS" means a system which provides water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system, and any water supply system serving an agriculture labor camp, as defined in section 3733.41 of the Revised Code."

Jackson is currently providing water from Jackson County Water's Bronx Corners WTP to approximately seven residences on Mt. Zion Rd. It was reported that the master meter for these customers is located across from 3283 Mt. Zion Rd in the old JCWC Mt. Zion "H" booster station. The City stopped supplying water to these customers due to its inability to maintain adequate pressure. As these customers are connected to the rest of Jackson's system through a normally closed valve, this is considered a separate public water system. The City is herein required to submit information concerning the number of customers provided with alternate water and the total population of those customers. If the numbers do not meet the definition shown above, this will not be considered a public water system and no further action will be necessary. Should this small line provide water to enough people ( $\geq 25$ ), the City will be assigned a separate PWS number and a monitoring schedule will be issued for this new system.

5. Ohio EPA's Division of Surface Water has informed the City of Jackson that the discharges of wastes generated at the water plant are illegal and must either be eliminated or permitted under the NPDES program. During this inspection, options were discussed that would allow the WTP to return to compliance. Jackson must submit detail plans to the Ohio EPA Division of Drinking & Ground Waters within the next 60 days for any upgrades necessary to eliminate the illegal discharge of backwash water and sludge into Buckeye Creek. It is assumed that this project will include the rehabilitation of the existing 65,000 gallon underground storage tank and the backwash and sludge pumps located therein to allow the system to decant and recycle the washwater and land apply the remaining sludges. If the City does not feel that it can meet the stated timeline, a schedule in which this project will be submitted for approval and thereafter constructed must be submitted.
6. The recently enacted Operator Certification Rules will affect the Jackson water system in the following ways:



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Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korfeski, Director

November 1, 2007

Re: Jackson County  
City of Jackson  
Water Treatment Plant  
Complaint Investigation  
Correspondence (IWW)

Mayor Shane Goodman  
Council President Jim Humphreys  
City of Jackson  
Memorial Building, 145 Broadway Street  
Jackson, Ohio 45640

Dear Mayor and Council President/Members:

On October 16, 2007, I investigated a complaint I received from Steve Riegel of the Jackson sewer crew regarding black water in Buckeye Creek at Lake Katherine Road. Gary Radabaugh, Jackson County Health Department, accompanied me on the inspection.

The black water did not appear to be sewage. There was no sewage smell, solids or plastic/floatables.

As part of the investigation we inspected the Jackson Water Treatment Plant (WTP). It was determined during the inspection that the black water was most probably the from the backwash water from the WTP, as backwashing had occurred that morning. The backwash water contains particles of carbon (used for odor and taste control in the drinking water) and manganese (removed so the drinking water is not discolored). Also, there is virtually no flow upstream of Hammertown Lake so other sources are unlikely. It was revealed during the inspection that there are 2 wastewater discharges from the WTP, the backwash water and discharges from the sediment basins, which are all unauthorized discharges. Backwashing is a daily discharge, and sedimentation basin cleaning occurs at least once a quarter.

These discharges are unauthorized and must be eliminated or properly permitted under the NPDES permit program. The City of Jackson must devise a short term solution to prevent discharges of pollution as soon as possible. I understand that the city is already working on a long term solution. In your response to this notice of violation, submit a description of both the short and long term plan along with cost estimates and a time schedule. Also, you must submit an NPDES permit application with your response.