

**Ashtabula City Municipal Building)  
City of Ashtabula, Ohio)**

**Monday, March 18, 2013**

**Call to Order**

Council met in a **REGULAR MEETING**. The President of Council called the meeting to order at 7:00 p.m.

**Opening Ceremony (Prayer/Pledge/Moment of Silence)**

The Clerk of Council offered the opening prayer and the Pledge of Allegiance was cited.

**Members Present:** Mr. August A. Pugliese, (Ward 2)  
Mr. James M. Trisket, (Ward 5)  
Mrs. Ann I. Stranman, (Ward 3)  
Mr. Christopher J. McClure, (Vice President)  
Mr. J.P. Ducro, IV, (President)

**Member(s) Absent:** Mrs. Julie A. Lattimer, (Ward 4)  
Mr. Richard F. Balog, (Ward 1)

**Officer(s) Present:** City Manager James M. Timonere, City Solicitor Michael Franklin  
City Auditor Dana D. Pinkert, Clerk of Council LaVette E. Hennigan

**Officer(s) Absent:** None

**Excused Absence:** Mr. Trisket moved, Mr. Pugliese seconded to excuse the Wards 4 and 1 Councilors from this evening's meeting; motion CARRIED.

**Sunshine Law:** The Clerk of Council certified conformity to the Sunshine Law.

**Presentations:** The President presented the following resolutions to the respective students:

***RESOLUTION NO. 2013-49***

***A RESOLUTION CONGRATULATING  
KYLE BRAXTON CONEL  
FOR PLACING 2<sup>ND</sup> IN THE  
OHIO HIGH SCHOOL ATHLETIC ASSOCIATION (OHSAA)  
STATE DIVISION 1 WRESTLING TOURNAMENT***

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**WHEREAS**, it has come to the attention of this City Council and these Public Officials of the City of Ashtabula, Ohio, that the Ohio High School Athletic Association (also known as OHSAA), State Division 1 Wrestling Tournament took place on February 28<sup>th</sup>, March 1<sup>st</sup>, and March 2<sup>nd</sup>, at Schottenstein Center in Columbus, Ohio; and

**WHEREAS**, it has also come to the attention of the City Council and these Public Officials that members of the Lakeside High School Wrestling Team participated in the OHSAA State Division 1 Wrestling Tournament; and

**WHEREAS**, represented were one hundred (100) Division 1 schools, with a total of two-hundred twenty-four (224) athletes wrestling in the Division 1 Tournament; and

**WHEREAS**, Lakeside High School Junior, Kyle Braxton Conel, has wrestled for 5 years, and this year placed 2<sup>nd</sup> in the Division 1 Tournament; and

**NOW THEREFORE, BE IT RESOLVED** by this Council and these Public Officers of the City of Ashtabula, Ohio, that we do acknowledge and salute Lakeside High School Junior, Kyle Braxton Conel, for his outstanding accomplishment and victory. Kyle, you are living proof that great athletes continue to come out of our small corner in the world. Thank you for representing Lakeside High School and the City of Ashtabula.

**KUDOS!**

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**RESOLUTION NO. 2013-47**

**A RESOLUTION CONGRATULATING  
CHUCK MORGAN  
FOR PLACING 7<sup>TH</sup> IN THE  
OHIO HIGH SCHOOL ATHLETIC ASSOCIATION (OHSAA)  
STATE DIVISION 1 WRESTLING TOURNAMENT**

**WHEREAS**, it has come to the attention of this City Council and these Public Officials of the City of Ashtabula, Ohio, that the Ohio High School Athletic Association (also known as OHSAA), State Division 1 Wrestling Tournament took place on February 28<sup>th</sup>, March 1<sup>st</sup>, and March 2<sup>nd</sup>, at Schottenstein Center in Columbus, Ohio; and

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***WHEREAS,** represented were one hundred (100) Division 1 schools, with a total of two-hundred twenty-four (224) athletes wrestling in the Division 1 Tournament; and*

***WHEREAS,** Lakeside High School Senior, Chuck Morgan, placed 7<sup>th</sup> in the Division 1 Tournament, and did so with a broken right hand sustained at the District Finals; and*

***WHEREAS,** Chuck Morgan has wrestled for 6 years; and this year he wrestled with determination, and most assuredly with pain from sustaining a broken hand, however was victorious.*

***NOW THEREFORE, BE IT RESOLVED** by this Council and these Public Officers of the City of Ashtabula, Ohio, that we do acknowledge and salute Lakeside High School Senior, Chuck Morgan, for his outstanding accomplishment, especially while facing a physical adversity. Thank you for representing Lakeside High School and the City of Ashtabula.*

## **KUDOS!**

### **Comments**

Coach Jerry Brady: It's not every year that we have the opportunity to place students in the State tournament. This year we had two. All Ohio guys come back, especially runner up. I think that Chuck was posed to make an appearance in the finals, as well, until he suffered his injury. Chuck also is a senior graduating from Lakeside and I do know their coach is going to offer him a scholarship next week. Hopefully in four years we can give him another one for being an All American in the NCAA Tournament.

Mrs. Stranman moved, Mr. Pugliese seconded to adopt the resolutions; motion CARRIED.

**Emergency Operating Levy:** Mr. Patrick Colucci, Superintendent, Ashtabula Area City Schools (AACS) spoke on the need for the upcoming Emergency Operating Levy to pass, in order to make the school district, community, and students better, and commented as follows: thanked the President and Manager for attending the March 12 Levy Rally. If the levy passes, bussing will return, pay to participate will be eliminated, will not have to institute state minimum standards of 5 and 5.5 hour school days, and will not have to eliminate art, music, and physical education. The federal ranking is more about closing the achievement gap. AACS are ranked 67 in "value added" (which represents 1 year growth achievements) out of 832, and is top in Ashtabula County. Our school system is compared to other schools in the county; however, our student population subgroups are different. We are at about 84% free and reduced lunch, 25% special needs, and a large English as a second language student population. Other districts in the county do not, and this matters when looking at percentages.

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Superintendent Colucci said he and other educators stormed the State Capitol building demanding more funding and citing unfairness. He hopes their voices were heard and changes are made, and believes it could happen.

The Clerk of Council shared that when her daughter attended West Junior High School, she accompanied her to a luncheon for 8<sup>th</sup> graders at Kent State. The lunch speaker told the students that one of the things they have to realize is that they are not competing with the students sitting next to them or that are in the classroom next to them. They are competing with students in other countries; students whose school days are longer, state supported, and whose curriculum is more intense. These are the students coming to our country, going to our colleges, and applying for US jobs alongside our students. So, to reduce the school day hours to 5 and 5.5, and then send our varied student population home, many of whom are latchkey kids, to sit in front of the computers or the television, and somehow hope they are able to compete at the level students in other countries are, is unfair and a travesty. She encouraged ones to vote for that reason.

The President commended Superintendent Colucci for going to the State Capitol., and encouraged others to take an active role. He said we cannot keep going back to our property owners and residents to continually ask them for more money when there is the ability, at the state and federal levels, to help us and invest in children from five to fifteen or eighteen, It's going to make the difference in what kind of citizens they become until they're 80. He encouraged citizens to write a letter to their state and federal elected officials who have the potential to influence how funding of schools are handled. We need some of that funding rather than relying on our citizens. In the meantime, we need the help of our citizens.

**Executive Session:** None

## **CONSENT AGENDA**

**Consent Agenda:** The Consent Agenda is a means whereby City Council is able to more efficiently conduct business. The Clerk of Council presented the following:

### **MEETING MINUTES DISPOSAL**

February 19, 2013 Regular Meeting

Mrs. Stranman moved, Mr. Pugliese seconded to waive the reading of the minutes; motion CARRIED. There being no corrections the minutes stand approved as presented.

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**FORMAL LEGISLATION REQUESTS**

**ORDINANCE NO. 2013-48 AN ORDINANCE TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF ASHTABULA, STATE OF OHIO, FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2013.**

Mrs. Stranman moved, Mr. Pugliese seconded to accept the consent agenda formal legislation requests; motion CARRIED.

**PUBLIC DISCUSSION (Consent Agenda Legislation Only) – None**

**LEGISLATION READING**

ORDINANCE NO. 2013-41 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GPD GROUP TO PROVIDE PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH THE WALNUT BEACH PARK CONCESSION BUILDING IMPROVEMENT PROJECT.

ORDINANCE NO. 2013-48 AN ORDINANCE TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF ASHTABULA, STATE OF OHIO, FOR THE PERIOD JANUARY 1, 2013 THROUGH DECEMBER 31, 2013.

Mrs. Stranman moved, Mr. Pugliese seconded to waive the reading of the consent agenda legislation; motion CARRIED. Mrs. Stranman moved, Mr. Pugliese seconded to waive the Charter requirement of two readings. On the roll call to waive the Charter requirement of two readings: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED. On the roll call to adopt the legislation: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED.

**(End of Consent Agenda)**

**REGULAR AGENDA**

**READING AND DISPOSAL OF MEETING MINUTES - None**

**CITY MANAGER'S REPORT**

**Engineering Services – Walnut Beach Concession Building**

The Manager reported renovations at the Beach have been talked about for years. With the passage of the ordinance during the consent agenda portion of this evening's meeting, the following is the tentative project schedule:

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Request for Bids are out; bid opening April 1, there will be three weeks of contract awarding activity, an ordinance will be presented to Council to award the bid by April 19, five week construction schedule, and a conclusion date of May 24, which is right before the Beach's opening. Plans may be reviewed at the Manager or GPD offices.

#### **Port Authority Appointments**

The Manager announced he would like to reappoint Mrs. Janet Vettel to the Port Authority effective immediately with a term to expire on January 22, 2017. Mrs. Stranman moved, Mr. Pugliese seconded to grant the Manager's request; motion CARRIED.

The Manager announced he would like to reappoint Mr. Carmen Corbissero to the Port Authority, as secretary, effective April 2, 2013 with a term to expire on April 1, 2017. Mrs. Stranman moved, Mr. Pugliese seconded to grant the Manager's request; motion CARRIED.

#### **Administrative Board Appointments**

The Manager announced he would like to appoint Mr. Nick Detore as a member of the Administrative Board effective immediately, with a term to expire on May 1, 2015. This appointment is made to satisfy the criteria for two Planning Commission members to be selected from the Administrative Board. Mrs. Stranman moved, Mr. Pugliese seconded to grant the Manager's request; motion CARRIED.

The Manager announced he would like to appoint Mr. Larry Seymour as a member of the Administrative Board effective immediately, with a term to expire on December 7, 2014. This appointment is made to satisfy the criteria for two Planning Commission members to be selected from the Administrative Board. Mrs. Stranman moved, Mr. Pugliese seconded to grant the Manager's request. The Vice President asked for Mr. Seymour's background. The Manager responded he is retired, is his next door neighbor, has been serving on the Planning Commission for about 2 years, is very interested in the community, and works a lot with St. Peter's Episcopal Church. The motion CARRIED.

#### **Yard Lawn/Leaf Bags**

The Manager announced April is free lawn and leaf bag picked month, and crews will begin April 15 in the Harbor. Bags may be purchased at Sanitation, Public Works, and Auditor's Departments for .40 cents a bag or 5 for \$2.00.

#### **Safe Routes to School Plan**

The Manager announced the public hearing for the Plan will be on Wednesday, March 20, at 7:00 p.m., at the AACCS Schools Board Meeting.

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### **Benefit Avenue & Route 20**

The Manager announced the traffic light at the intersection of Benefit Avenue & Route 20 will be on flashing for some time. The controller is shot and has been patched as much as possible. He asked that motorists exercise caution.

### **Swimming Buoys**

The Manager announced the City received a much needed Ohio Department of Natural Resources grant for Walnut Beach swimming buoys. The buoys will be out with the completion of the concession renovations.

### **QUESTIONS AND/OR COMMENTS FOR THE CITY MANAGER**

The Ward 2 Councilor asked the Manager to expound on the Beach renovations. The Manager responded the men and women's bathroom will be completely remodeled, and exterior doors to the restroom for access to the restrooms (through a time lock) when the concession stand is closed will be installed. He hopes bids come in low enough to paint, install new lighting in the concession stand area, and replace the concrete slab out front (the biggest expense being to replace the railing system that goes around the slab).

The Vice President asked if the Beach renovations are considered as phase one of the Lift Bridge Community Association (LBCA) Plan. The Manager said he would not term it as phase one because it was part of the Bird Houck (BH) Plan provided to the City for the Beach. It is part of the LBCA's Big 3 Projects. The Vice President suggested we keep moving forward with both Plans (BH and LBCA) to see what we can help them to achieve. The Manager reported he and the Ward 2 Councilor are often in communication with the LBCA to see what they need and how the City may help. The Ward 3 Councilor reminded that the BH Plan was orchestrated and led by the City, which shows partnership between the City of Ashtabula and the LBCA, not LBCA acting alone. She said, "We're all working together to better the area. But Walnut Beach is the City's Beach, ultimately." The Ward 2 Councilor responded, "That will be the benchmark of the project, believe me."

**Ward Meetings:** The President said he wants to get back on track with the meetings and hopes to have a few scheduled in the next couple of months, and would like to make a report at the next regular council meeting. The Manager said he will do.

### **CITY SOLICITOR'S REPORT**

#### **Carrying Certain Weapons Prohibited**

The City Solicitor stated, "The Safety Forces Committee is going to be presenting a report this evening that includes a recommendation that pending legislation involving Carrying Certain Weapons Prohibited Section 549.10 of the Codified Ordinances be tabled. I'm going use my report and communications section to give you my earnest recommendation that that legislation not be tabled.

The current version of that statute fails, because of its age, fails to pick up certain court mandated safeguards and affirmative defenses which render the current ordinance, in certain applications, arguably unconstitutional. The proposed legislation, while it has certainly been a work in progress, has resulted, on, I believe it's your page 17 (of the Safety Forces Committee report of March 15), a version that is entitled, Proposed Further Revision per Public Comments, which I am morally and intellectually and professionally convinced is entirely constitutionally sound because it is the most narrowly drawn, least effecting personal freedoms version of this legislation. It still meets the needs as expressed by members of the Police Division, that it is an inherently dangerous situation for people to be carrying some of these items, especially on the streets of the City. With that in mind, it is more narrowly drawn starting out as it does by saying, "No person shall knowingly carry any of the following on or about his person while upon a public street, alley or sidewalk, or while upon public property or private property open to the public... ". That takes away the whole concern about whether or not a person can lawfully possess these items on his or her own property. It incorporates the exception for, and actually expands the exception, for personal defense, for self defense or defense of others. In Section (d) it states, "It is an affirmative defense to an alleged violation of this section that an item prohibited under paragraphs (a)(2), (3) or (6) of this section was carried by a person who was not otherwise prohibited by law from possessing the item, and that the item was carried by the alleged offender for defensive purposes in a lawful activity under circumstances which would justify a prudent person in having a weapon ready at hand. That's one of the broadest self defense exceptions that I have found in Ohio law. We also further refined, or clarified, whether or not sport or recreational activity (in other words possessing one of these items for the purpose of actual use in a bona fide sport or recreational activity) would include hobbies. So we added the word hobby in paragraph (c). This proposed ordinance passes muster under every Ohio case, and indeed every federal case that I have seen that addresses this particular type of item. Now, I know there have been comments from well intentioned persons who feel very strongly about their 2<sup>nd</sup> Amendment rights, suggesting that this is an implication of – this is an inherent infringement upon the 2<sup>nd</sup> Amendment right to keep and bear arms. Side stepping for the moment, whether or not the arms spoken of in this ordinance would ever have been thought of by the framers of the Constitution of being arms when that was written, I would like to point out that the 2<sup>nd</sup> Amendment and the rights under the 2<sup>nd</sup> Amendment, like most constitutional rights, are not absolute. The right, for example, to keep and bear arms does not include the right, necessarily, to keep and bear fully automatic weapons, weapons that fire explosive projectiles, weapons that fire biological agents or are capable of introducing radioactive elements into another person's body - obviously there are limitations. The rule in constitutional law whenever legislation is considered, which may impact a constitutional right, is that it must be supported by a compelling state or governmental interest. In this case the compelling interest is that of public safety which is recognized in all cases addressing this issue as being a compelling governmental interest. It's one of the reasons we have governments – to help keep our citizens safe.

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The next question is, is this legislation over-broad or has it been narrowly drawn, and narrowly applied just to prohibit the activity that creates a risk to public safety. And, the proposed further reversion per public comments is, again, the most narrowly drawn enactment certainly that I am capable of coming up with. And, it certainly passes the pronouncements of the Ohio courts that have addressed this issue. And finally, the question arises, does, despite it's not being overly broad or vague, does the legislation impermissibly include, within its prohibition, otherwise lawful activity. And, in this case I would certainly urge you that it does not. Every conceivable category of lawful activity involving these particular items has been addressed in this legislation. So, when faced with a choice between keeping, for some indefinite time, the current version which has not been through this process of extensive review and discussion, and research, and which may well be unconstitutional, or enacting this version which has been extensively vetted and your City Solicitor is assuring you is constitutional, I would hope that you would go forward and enact the latter. Thank you."

Ward 3 Councilor: The version titled, "PROPOSED FURTHER REVISION PER PUBLIC COMMENTS" is not the version scheduled for a second reading this evening.

Clerk: At the March 15 Safety Forces Committee meeting, the President expressed he was uncomfortable with moving forward with enacting amendments to the Carrying Certain Weapons Prohibited legislation and asked her how to stop its enactment given it received its first reading at the March 4 Regular Council meeting. The Clerk advised that it may either be "postponed to an indefinite or specific date" or "laid it on the table" which would cause the legislation to die.

President: The Committee Chair is not at this meeting to express his thoughts, and the Solicitor was not present at the March 15 SF Committee meeting to express his opinions as he did this evening. Therefore the Committee did not have the opportunity to discuss the Solicitor's opinions.

Clerk: The version titled "PROPOSED FURTHER REVISION PER PUBLIC COMMENTS" was not discussed, just whether to move forward with the 2<sup>nd</sup> reading on the version titled "CURRENTLY BEING CONSIDERED BY COUNSEL", both versions and the existing version are hereto attached. The Clerk told the Solicitor it was her understanding that if a change is made to legislation when presented for its second reading, the ordinance has to be placed on its first reading again because of the change. The Solicitor said he is not familiar with the provision and recalled an action in December where said provision was not applied.

The Solicitor's comments initiated much discussion, including whether to move forward with the SF Committee Chair not in attendance, why the existing version has not been an issue until now, the spirit of the SF Committee was not to table the issue indefinitely,

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how to move forward with the "PROPOSED FURTHER REVISION PER PUBLIC COMMENTS" which has never been presented on the floor and is different than the one scheduled to receive a second reading this evening. Council may take as much time as it needs to determine how to proceed, but was urged by the Solicitor to not table it entirely because that would remove it from Council's legislative schedule and requires a motion to bring it forth from the table. He suggested placing the "PROPOSED FURTHER REVISION PER PUBLIC COMMENTS" on its first reading is an appropriate activity, and recommended against doing nothing. The Vice President asked if he, as the Vice President of Council and a member of the SF Committee could present something different than what the SF Committee recommended. The Clerk advised that only the Committee's recommendation may be reported out of Committee, but he may as a member of Council suggest an alternative. The Solicitor concurred. The President reported he is most opposed to moving forward with a second reading this evening, and would like SF Committee Chair Balog's input. Also discussed were repealing the existing codified ordinance, not enacting anything new, and being governed by state and federal regulations regarding this matter. The Solicitor reported one advantage of enacting state law on our books by the passage of legislation is we benefit if a fee or fine is required to be paid. If we have not enacted a state or federal regulation and someone is cited in our municipality, we have to share the collected revenue.

The President moved, Mr. Pugliese seconded to lay on the table Ordinance No. 2013-38 AN ORDINANCE ENACTING NEW CODIFIED ORDINANCE SECTION 549.10 ENTITLED CARRYING CERTAIN WEAPONS PROHIBITED. The Clerk asked the President if he desired to do anything with Ordinance No. 2013-37 AN ORDINANCE REPEALING CODIFIED ORDINANCE SECTION 549.10 ENTITLED CARRYING CERTAIN WEAPONS PROHIBITED at this time. The President responded, "Not at this time". The Solicitor responded, "I see no reason to delay the repeal of the current Section 549.10. I cannot in good conscience advise any police officer to enforce this section at this time." The President asked what degree of protection would be in place if Ordinance No. 2013-37 fails. The Solicitor responded, "Either state law or federal law prohibits or restricts the possession of most of these items. Now, slingshot obviously is not a regulated item. So what we would default to is the prohibition in the City from actually shooting a slingshot within the City limits. As far as carrying a switchblade knife is concerned, yes, there are provisions of state law dealing with that. But what we would be defaulting to, primarily are our local ordinances which prevent the firing or shooting of just about any projectile, hurling device in the City, and the generalize prohibition against carrying a concealed weapon, which is still out there. To be honest with you, that is the way in which we have been dealing with the crack dealer carrying the six inch knife. We have filed it under the concealed weapons ordinance because 549.10, as it currently exist, is as I say virtually unenforceable, and of questionable constitutionality." The President called for a roll call vote to lay on the table Ordinance No. 2013-38. The Clerk asked the Solicitor if he is in agreement with the request; the Solicitor responded, "Yes, Madam Clerk, I am".

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On the roll call to lay on the table Ordinance NO. 2013-38: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED.

**QUESTIONS AND/OR COMMENTS FOR THE CITY SOLICITOR - None**

**CITY AUDITOR'S REPORT**

The Auditor reported the first half property taxes came in within projections; therefore some of the cash flow issues discussed at the Finance & Personnel Committee meeting are relieved, and some of the transfers discussed will be worked on.

The Auditor reported income tax, year to date, is disappointing. It is about \$100,000 less than 2012, and is coming in about 3% less than projected, which is substantial. She will have something more concrete on how to proceed when she gives her first quarter report.

**QUESTIONS AND/OR COMMENTS FOR THE CITY AUDITOR**

The Vice President said, "So everybody knows", if we are going to run 3% behind it will affect City operations. Therefore in May when the 1.8% income tax renewal is on the ballot, consider the effect a 3% reduction in the 1.8% is going to cause in the City, be it layoffs or lack of services. So, we are urging the public to look favorable on the renewal, and to consider what a 100% reduction would do if the levy renewal fails. The Ward 2 Councilor reminded everyone that the income tax is a renewal, has been in place since 1962 or 1963, and "without it you might as well shut off the lights and lock the doors, believe me. So this is very, very important. When you go vote that day just consider it's a renewal, and it's something we need to have to operate the City of Ashtabula. If the renewal goes down then we will definitely be scrambling by September, no doubt about it. So, please remember that and vote for the renewal of the 1.8% income tax."

The Manager said, of the General Fund, which is around nine million dollars, the income tax revenue is over five million dollars of that nine million dollars. The President reported more than 50% of the General Fund is what funds the Fire, Police, and road departments.

The City Solicitor reported because the City of Ashtabula is a Charter City, and because the Charter says the voters have to enact an income tax, the City of Ashtabula does not have the option of imposing an automatic 1% as allowed for in the Ohio Revised Code. Therefore, if our income tax levy fails, we will default to zero. He stated the ORC says "you may", the City Charter says "you may not".

The Ward 3 Councilor said it is importance to make sure the electorate knows the renewal has been voted on every 3 years for years, and that we need it.

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### **Combining Departments of City Treasurer and City Auditor**

The President reminded that the other City issue that will be on the May 7 Primary Election ballot will be the consolidation of the Departments of the City Treasurer and City Auditor. It will be a Charter change that will streamline the efficiencies of the departments, save costs and usher us into the 21 Century way of operating our finance side. The City Auditor encouraged citizens with questions to contact her on her direct phone line at 440.992.7197 or email at [auditor@cityofashtabula.com](mailto:auditor@cityofashtabula.com).

### **CITY COUNCIL COMMITTEE REPORTS**

**Community / Economic Development / Parks & Recreation (Mrs. Stranman/Mr. Balog):** The Chair reported the following:

**Committee Meeting:** the Committee will meet April 3, at 6:00 p.m., to discuss Green Energy Efficient type housing, with a member of the My Neighborhood Group. Their target is to secure some of the vacant land from demolition activity through the Neighborhood Stabilization Project (NSP).

**ADDA's Annual Meeting:** She attended the annual meeting, it was not well attended because most folks were at the Ashtabula Area City Schools Emergency Levy Kick-Off. She reported the meeting was good, a lot of information was shared, they accomplished much in 2012, and have many plans for 2013.

**Finance and Personnel - (Mr. Ducro IV/Mrs. Lattimer):** The Chair reported on the Committee's Friday, March 8 meeting, as follows:

**February Financials** were reviewed. Part of the 2012 Fire Department payroll was in the 2013 budget, which initiated the discussion about considering a 24 pay systems (2 pays per month versus 26 or 27 pays per year for budgetary purposes). The Auditor will check with the Payroll and Human Resources Specialist Carolyn Sheldon to determine how to proceed. Also discussed was: the proposed Early Retirement Incentive Plan; appropriation requests which were brought forth this evening; Ohio Public Employees Retirement System (OPERS) pick up ordinance; the Municipal Courts journalized budget has not yet been submitted; Education Reimbursement Policy revisions and formal policy to be presented at the next Committee meeting; proposed layoffs no longer are necessary positions opened up through staffing departures, and repositioning; and the funding that is available this year to avoid layoffs will not be available in 2014, and watch of the revenues and expenditures continues.

**Committee meeting:** Friday, April 12, at 8:00 a.m., the public is welcome.

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#### **QUESTIONS/COMMENTS FOR FINANCE & PERSONNEL COMMITTEE**

The Clerk asked the Auditor if the Committee has to request that the Manager be the signer on the Early Retirement Incentive Plan (ERIP), or does the legislation scheduled for this evening address it. The Auditor responded this evening's legislation addresses it.

#### **Ohio Police & Fire Pension Pickup Legislation**

The Clerk reported formal requests have been made to the Solicitor to draft the legislation, but not on the floor. Mr. Ducro moved, Mr. Pugliese seconded to repeal Ordinance Nos. 2012-144 and 2012-145 and enact new ordinances to reflect the change in the OP&F Pickup; motion CARRIED.

**Public Works / Utilities / Schools – (Mr. August Pugliese/Mrs. Lattimer):** The Chair reported:

**Street Cuts:** The Chair reported Aqua Water's street cuts are beginning to settle, and asked the Manager to contact Aqua representative, Mr. Fusco.

**Meeting:** The Committee will meet on April 9, at 8:00 a.m. He hopes a TimeWarner Cable representative is present at the April or May meeting to provide information about services and pricing, which has not been done in a few years.

**Safety Forces – (Mr. Balog/Mr. Trisket):** The President provided the following report on the Committee's March 14 meeting:

**Minors' Curfew:** Lakeside Junior High School students MacKenzie Taylor, Morgan Weir, Olivia Cutlip, Samantha Griffith, Noelle Woodworth, and their teacher Mrs. Susan Marple were present to express their views about the existing minors' curfew legislation, and to provide suggested changes. He commended the students for their exceptional presentations. Legislation from other communities was reviewed and an alternative version was agreed upon. Mr. Ducro moved, Mr. Trisket seconded to have the Solicitor draft Alternative Version No. 2; motion CARRIED.

**Civil Service Rules & Regulations:** Mr. Trisket moved, Mr. Pugliese seconded to accept the suggested change and have the Solicitor draft legislation accordingly:

POLICE DEPARTMENT:

(1) LIEUTENANT: NO MEMBER OF THE CITY POLICE DEPARTMENT SHALL BE ELIGIBLE TO TAKE THE PROMOTIONAL EXAMINATION FOR THE POSITION OF LIEUTENANT IN THE CITY OF ASHTABULA POLICE DEPARTMENT WITHOUT HAVING FIRST SERVED FORTY-EIGHT CONTINUOUS MONTHS IN GRADE AS A PATROLMAN WITHIN THE CITY OF ASHTABULA POLICE DEPARTMENT IMMEDIATELY PRECEDING TAKING THE LIEUTENANT PROMOTIONAL EXAM. The motion CARRIED.

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**Fire Lane for Signature Health (former Hotel Ashtabula):** was discussed.

**Fire Department Staffing:** The Department is currently down two persons, which is costing about \$5,000 in overtime every pay period. They are hoping to have their staffing back to their budgeted number shortly, thereby reducing overtime costs.

**EMS Billing:** Revenue is at the projected level; transports are up 30% from all of 2012.

#### **Police Department**

**New Vehicles:** should be outfitted and on the road within the next two months.

**New Radios:** have been ordered and will be installed and ready in conjunction with the new vehicles.

**Staffing:** A part-time dispatcher position was posted. Three dispatchers left and will be replaced to bring department back to full staffing.

**Mobile Meth Lab:** were discussed, including how to discard/remediate labs found along the road, and the lack of public safety created by such. Fire Chief Pristera advising that anyone coming across a meth lab should call the Fire Department. They will remediate on sight.

**Carrying Certain Weapons Prohibited:** was discussed at length in the meeting and this evening.

**Work Session – No Report – No Report**

**FORMAL LEGISLATION REQUESTS:** The Clerk presented the following:

ORDINANCE NO. 2013-43 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOINT ECONOMIC DEVELOPMENT DISTRICT (JEDD) CONTRACT WITH ASHTABULA TOWNSHIP, OHIO. Mrs. Stranman moved, Mr. Pugliese seconded, to approve the formal request; motion CARRIED.

ORDINANCE NO. 2013-45 AN ORDINANCE REPEALING, IN ITS ENTIRETY, ORDINANCE NO. 2013-34, PASSED ON FEBRUARY 19, 2013, FOR THE PURPOSE OF MAKING CORRECTIONS TO EARLY RETIREMENT INCENTIVE PLAN DOCUMENTS BY REASON OF AN O.P.E.R.S. ERROR, AND TO ADD THE EARLY RETIREMENT INCENTIVE PLAN FOR THE CITY COUNCIL DIVISION. Mrs. Stranman moved, Mr. Pugliese seconded, to approve the formal request; motion CARRIED.

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ORDINANCE NO. 2013-46 AN ORDINANCE ADOPTING AND APPROVING EARLY INCENTIVE RETIREMENT PLANS TO BE MADE AVAILAVLE TO ELIGIBLE EMPLOYEES IN THE CITY COUNCIL, PUBLIC WORKS, SANITATION AND WASTE WATER TREATMENT DIVISIONS. Mrs. Stranman moved, Mr. Pugliese seconded, to approve the formal request; motion CARRIED.

### **PUBLIC COMMENT (Legislation Only)**

### **LEGISLATION READING**

**ORDINANCE NO. 2013-37 AN ORDINANCE REPEALING CODIFIED ORDINANCE SECTION 549.10 ENTITLED CARRYING CERTAIN WEAPONS PROHIBITED**, was presented for its second reading. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the reading; motion CARRIED. The President announced that if the vote passes there will no longer be an ordinance addressing this subject on our books. If the vote fails an ordinance will be on the books which the Solicitor earlier this evening reported has some constitutionality issues. Mrs. Stranman moved, Mr. McClure seconded to adopt the ordinance. On the roll call to adopt the ordinance: Mr. Pugliese (nay), Mr. Trisket (nay), Mrs. Stranman (yea), Mr. McClure (yea), Mr. Ducro (yea). The Clerk asked the Solicitor if he wanted to comment before he called the count. He responded, "No". The Clerk announced the vote outcome as 3 for repealing - 2 against repealing; therefore the motion **FAILED**. The existing Codified Ordinance Section 549.10 remains in place. The Ward 5 Councilor said, "It was great until a couple weeks ago, so...". The President asked why it failed. The Clerk responded a majority vote of Council is required to either place it on its first reading or at least five votes are needed for its immediate enactment. The Solicitor asked the President if the Ward 5 Councilor could "enlarge" upon his comment, "it was great until a couple weeks ago". The Ward 5 Councilor responded, "Couple weeks ago, or a little beyond that, which is when you presented this quest for an ordinance to Safety Forces Committee. Prior to that it wasn't to any of our knowledge, anyways, there was no contention to the existing ordinance. My first knowledge of any request for change was when I received it in the email, after you had presented it for Safety Forces. So, it's my understanding that the existing ordinance was okay until that point." The Solicitor responded, "I don't believe I ever made that representation. I don't believe I ever told the Safety Forces that I was satisfied legally or professionally or personally with the existing ordinance. And, in point of fact, just so the record reflects, for quite some time anyway, approximately two years, when citations have crossed by desk alleging a violation of Section 549.10, I have voided it and refiled it as a carrying concealed weapons charge because of my concerns about this ordinance. I did not know that silence lent consent in that particular issue and that particular matter. But, I just want it to be clear that I don't believe I ever overtly endorsed the existing ordinance or assured Council or the Committee that the existing ordinance was fine; it's not." The President said, "To me I think that's reasonable and understandable from the standpoint of, again, other issues that have come up in the past that may have been on our books that ultimately needed to be changed.

I don't know that it's possible to know the language and the validity of every single ordinance that's on our books. I'm sure that's a very extensive collection of documents. And, I think as things come up and then they become researched, that's probably when we find that maybe there's ways that we can improve them or that they should be modified. So, that's probably what happened in the case with this particular ordinance that, that maybe came out (I don't want to speak for Mr. Franklin), that's just how I kind of understood it to be. As it did with the sign ordinance, which when it came to our attention that there was really an issue about it, we had it on the books but we quickly repealed it. So, I guess I kind of looked at it as being that same thing. I didn't look at it as it was fine. I just looked at it as trying to resolve the issues that people think that they still have with this and the proposed change, so we can try to get it right when we pass it the first time. That's my biggest reason for wanting to take a little more time with it."

**ORDINANCE NO. 2013-42 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOINT ECONOMIC DEVELOPMENT DISTRICT (JEDD) CONTRACT WITH SAYBROOK TOWNSHIP, OHIO**, was presented. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the reading; motion CARRIED. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the Charter requirement of two readings. On the roll call to waive the Charter requirement of two readings: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED. On the roll call to adopt the ordinance: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED.

**ORDINANCE NO. 2013-43 AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOINT ECONOMIC DEVELOPMENT DISTRICT (JEDD) CONTRACT WITH ASHTABULA TOWNSHIP, OHIO**, was presented. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the reading; motion CARRIED. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the Charter requirement of two readings. On the roll call to waive the Charter requirement of two readings: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED. On the roll call to adopt the ordinance: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED.

**ORDINANCE NO. 2013-44 AN ORDINANCE ENACTING CHAPTER 1369 OF THE CODIFIED ORDINANCES OF THE CITY OF ASHTABULA, ENTITLED VACANT BUILDING ENFORCEMENT PROGRAM**, was presented. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the reading; motion CARRIED. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the Charter requirement of two readings. On the roll call to waive the Charter requirement of two readings: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED. On the roll call to adopt the ordinance: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED.

Ashtabula City Council Regular Meeting  
Monday, March 18, 2013

**ORDINANCE NO. 2013-45 AN ORDINANCE REPEALING, IN ITS ENTIRETY, ORDINANCE NO. 2013-34, PASSED ON FEBRUARY 19, 2013, FOR THE PURPOSE OF MAKING CORRECTIONS TO EARLY RETIREMENT INCENTIVE PLAN DOCUMENTS BY REASON OF AN O.P.E.R.S. ERROR, AND TO ADD THE EARLY RETIREMENT INCENTIVE PLAN FOR THE CITY COUNCIL DIVISION,** was presented. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the reading; motion CARRIED. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the Charter requirement of two readings. On the roll call to waive the Charter requirement of two readings: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED. On the roll call to adopt the ordinance: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED.

**ORDINANCE NO. 2013-46 AN ORDINANCE ADOPTING AND APPROVING EARLY INCENTIVE RETIREMENT PLANS TO BE MADE AVAILAVLE TO ELIGIBLE EMPLOYEES IN THE CITY COUNCIL, PUBLIC WORKS, SANITATION AND WASTE WATER TREATMENT DIVISIONS,** was presented. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the reading; motion CARRIED. Mrs. Stranman moved, Mr. Pugliese seconded, to waive the Charter requirement of two readings. On the roll call to waive the Charter requirement of two readings: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED. On the roll call to adopt the ordinance: Mr. Pugliese, Mr. Trisket, Mrs. Stranman, Mr. McClure, Mr. Ducro voted yea; motion CARRIED.

**UNFINISHED BUSINESS** - None

**NEW BUSINESS** - None

**MISCELLANEOUS BUSINESS** - None

**GENERAL PUBLIC PORTION** - None

**CLOSING REMARKS**

The President reminded the viewing audience to “Keep Believing in Ashtabula”.

**ADJOURNMENT**

Mr. Pugliese moved, Mrs. Stranman seconded to adjourn the meeting at 9:16 p.m.

Ashtabula City Council Regular Meeting  
Monday, March 18, 2013

DATE APPROVED: April 15, 2013

ATTESTED BY: \_\_\_\_\_

**J.P. Ducro, IV**  
**President of Council**

ATTESTED BY: \_\_\_\_\_

**LaVette E. Hennigan, MMC**  
**Clerk of Council**

**EXHIBIT**

**549.10 CARRYING CERTAIN WEAPONS PROHIBITED.**

(a) No person shall knowingly carry any of the following on or about his person within the corporate limits of the City of Ashtabula:

- (1) brass knuckles;
- (2) any billy or billy club, including batons or sticks connected by a cord or chain commonly referred to as “nunchaku” or “nunchuks”;
- (3) a slingshot, dart gun or pellet gun;
- (4) a sandbag, “sap” or other weapon of similar character;
- (5) a gravity knife, butterfly knife, or any knife fitted with a mechanical device for automatic release of the blade, opening the knife and locking the knife in the open position, commonly known as an automatic knife, switchblade or spring knife;
- (6) any knife with a blade in excess of four and one-half inches (4.5”) in length from the guard or top of the handle to the tip of the blade.

(b) This section does not apply to any such item designated for use by and in the possession of law enforcement officers, fire fighters, ambulance or rescue personnel.

(c) It is an affirmative defense to an alleged violation of this section that an item prohibited under paragraphs (a)(2), (3) or (6) of this section is required for and actually used by the alleged offender in a lawful trade, business, employment, occupation, sporting or recreational activity.

(d) It is an affirmative defense to an alleged violation of this section that an item prohibited under paragraphs (a)(2), (3), (4) or (6) of this section was carried by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor’s lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(e) It is not a violation of this section to possess any of the above items on the private property of the alleged offender, or secured in the trunk or in a compartment separate from the passenger compartment of a motor vehicle occupied by the alleged offender.

(f) Whoever violates this section is guilty of a misdemeanor of the third degree.

**CURRENTLY BEING CONSIDERED BY COUNSEL:**

**549.10 CARRYING CERTAIN WEAPONS PROHIBITED.**

(a) No person shall knowingly carry any of the following on or about his person within the corporate limits of the City of Ashtabula:

- (1) brass knuckles;
- (2) any billy or billy club, including batons or sticks connected by a cord or chain commonly referred to as “nunchaku” or “nunchuks”;
- (3) a slingshot, dart gun or pellet gun;
- (4) a sandbag, “sap” or other weapon of similar character;
- (5) a gravity knife, butterfly knife, or any knife fitted with a mechanical device for automatic release of the blade, opening the knife and locking the knife in the open position, commonly known as an automatic knife, switchblade or spring knife;
- (6) any knife with a blade in excess of four and one-half inches (4.5”) in length from the guard or top of the handle to the tip of the blade.

(b) This section does not apply to any such item designated for use by and in the possession of law enforcement officers, fire fighters, ambulance or rescue personnel.

(c) It is an affirmative defense to an alleged violation of this section that an item prohibited under paragraphs (a)(2), (3) or (6) of this section is required for and actually used by the alleged offender in a lawful trade, business, employment, occupation, sporting or recreational activity.

(d) It is an affirmative defense to an alleged violation of this section that an item prohibited under paragraphs (a)(2), (3), (4) or (6) of this section was carried by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor’s lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(e) It is not a violation of this section to possess any of the above items on the private property of the alleged offender, or secured in the trunk or in a compartment separate from the passenger compartment of a motor vehicle occupied by the alleged offender.

(f) Whoever violates this section is guilty of a misdemeanor of the third degree.

**PROPOSED FURTHER REVISION PER PUBLIC COMMENTS:**

**549.10 CARRYING CERTAIN WEAPONS PROHIBITED.**

(a) No person shall knowingly carry any of the following on or about his person while upon a public street, alley or sidewalk, or while upon public property or private property open to the public, within the corporate limits of the City of Ashtabula:

- (1) brass knuckles;
- (2) any billy or billy club, including batons or sticks connected by a cord or chain commonly referred to as “nunchaku” or “nunchuks”;
- (3) a slingshot, dart gun or pellet gun;
- (4) a sandbag, “sap” or other weapon of similar character;
- (5) a gravity knife, butterfly knife, or any knife fitted with a mechanical device for automatic release of the blade, opening the knife and locking the knife in the open position, commonly known as an automatic knife, switchblade or spring knife;
- (6) any knife with a blade in excess of four and one-half inches (4.5”) in length from the guard or top of the handle to the tip of the blade.

(b) This section does not apply to any such item designated for use by and in the possession of law enforcement officers, fire fighters, ambulance or rescue personnel.

(c) It is an affirmative defense to an alleged violation of this section that an item prohibited under paragraphs (a)(2), (3) or (6) of this section is required for and actually used by the alleged offender in a lawful trade, business, employment, occupation, sport, hobby or recreational activity.

(d) It is an affirmative defense to an alleged violation of this section that an item prohibited under paragraphs (a)(2), (3), (4) or (6) of this section was carried by a person who was not otherwise prohibited by law from possessing the item, and that the item was carried by the alleged offender for defensive purposes in a lawful activity under circumstances which would justify a prudent person in having a weapon ready at hand.

(e) It is not a violation of this section to possess any of the above items secured in the trunk or in a compartment separate from the passenger compartment of a motor vehicle occupied by the alleged offender.

(f) Whoever violates this section is guilty of a misdemeanor of the third degree.