

**Village of Mantua
Regular Council Meeting
April 21, 2009**

Mayor Hawkins called the meeting to order at 7:01 p.m. and led the pledge of Allegiance.

Roll Call: Donna Hawkins, Jim Rogers, Linda Schilling, Marty Hura, Ben Prescott, Roger Hawkins, Giles Seith.

Others Present: Clerk-Treasurer Jenny August, Asst. Clerk Susan Skrovan, Village Solicitor Tom Reitz, Police Chief Harry Buchert, Village Administrator Ed Trego, Rich lafelice and Brian Rogers with C.T. Consultants.

Public: John & Linda Clark, Ralph Gregory, Cindy Toth, Scott (Randy) & Lauren Weaver, Pearl Campbell, Michele Stuck, Patsi Gast, Anita Hanzlik and her two sons, Norm Erickson, Mr. & Mrs. Sluka, Linda Stevens, John Ress, Steve Hentzelman and others.

Minutes: Motion to approve the meeting minutes of March 17, 2009 made by M. Hura with a second from J. Rogers. All ayes on vote.

Mayors Report: Mayor Hawkins reported working consistently on the Mats Road project. She recently met with Bob Harris from Portage County Regional Planning to discuss how to preserve the integrity and character of our Village. She spoke at a ceremony to honor scout leader Tom Smith for 40 years of volunteerism and Eagle Scout advisor Dick Krzys for his 29 years of service with the Boy Scouts. Donna is working to potentially increase revenue for our police department with the Village of Hiram.

Mayor Hawkins introduced Tommie Jo Marcilio as candidate for Portage County Judge. Tommie Jo Marcilio introduced herself and hopes to have the opportunity to get to know everyone; she is currently an assistant prosecutor for Portage County. She is running against Kevin Poland, who has registered thus far.

Finance Report: Clerk-Treasurer, Jenny August gave the financial report as of 3/31/09. She made it through the first year, has learned a lot and feels she has a good understanding of how things work in governmental accounting. The general fund was very low last month at \$25,000, however, first quarterly returns and income tax monies are coming in now. Our general fund should be in much better shape at next month's report. She thanked Council again for not taking out a loan to pay off debt; we may need to do that before year-end just to cover payroll and general expenses.

Motion to approve the financial reports: bank statements, fund status, revenue & expenses reports made by J. Rogers with a second from L. Schilling. All ayes on vote.

Bills of Resolution: Motion to approve Bills of Resolution with addendum for April less the C.T. bills made by B. Prescott. Jim asked if Council was going to discuss the bill's list. The Finance committee took exception to line 40 for the Record Courier annual subscription of \$112.00, everyone is having to sacrifice. Roger felt it was a very valuable tool for the Village and the Mayor's office. Jim agreed it is valuable; the coupons alone pay for the subscription. Linda's opinion was that we can use the money other places; you can get all of this online. Harry said he uses the paper at the police department as well. The Mayor took exception to what Jim Rogers said. She does not use the coupons nor does she take it home; but she does not have a problem not having it for now. Donna also noted she checked about getting the paper online, you can do that but you have to pay for it. Motion to approve the Bills of Resolution with addendum omitting line 40 and less C.T. bills made

by J. Rogers with a second from B. Prescott. R. Hawkins voted no, all other ayes on vote. Motion to approve the C.T. bills made by M. Hura with a second from L. Schilling. B. Prescott abstained, all other ayes on vote.

Motion made by L. Schilling to go into executive session for contractual negotiations and eminent litigation matters at 7:12 p.m. with a second from J. Rogers. All ayes on vote.

Motion made by L. Schilling to reconvene into regular session at 7:50 p.m. with a second from J. Rogers. All ayes on vote.

Legislation:

ORDINANCE 2009-9: AN ORDINANCE ESTABLISHING A DEADLINE FOR REQUESTING PURCHASE ORDERS FROM THE CLERK-TREASURERS OFFICE AT THE END OF THE FISCAL YEAR. 3rd READING. Motion to approve made by B. Prescott with a second from L. Schilling. R. Hawkins voted no, all other ayes on vote.

RESOLUTION 2009-15: A RESOLUTION ESTABLISHING THE RATE OF PAY FOR THE COUNCIL OF THE VILLAGE OF MANTUA. 2nd READING.

RESOLUTION 2009-19: A RESOLUTION RATIFYING THE APPLICATION FOR AND SUBSEQUENT ACCEPTANCE OF GRANT FUNDS BY THE VILLAGE OF MANTUA, AND DECLARING AN EMERGENCY. Motion to suspend the rules made by L. Schilling with a second from J. Rogers. All ayes on vote. Motion to approve made by L. Schilling with a second from J. Rogers. Chief Buchert reported this is a follow-up of their discussion and is required for the grant application. Jim called to question. All ayes on vote. Harry noted our grant was accepted, we should have an answer before September 30, 2009.

RESOLUTION 2009-20 AMENDED: A RESOLUTION ACCEPTING DOWNTOWN MANTUA REVITALIZATION CORPORATION'S OFFER TO CREDIT THE VILLAGE OF MANTUA WITH \$17,000 IN PAYMENTS THE CORPORATION HAS MADE RELATIVE TO PROFESSIONAL DOWNTOWN REVITALIZATION DESIGN AND PLANNING SERVICES AND ALLOCATING \$4,000 FROM THE VILLAGE'S GENERAL FUND FOR THE PURPOSE OF FULFILLING THE VILLAGE'S FINANCIAL OBLIGATION UNDER THE TERMS OF A CERTAIN AGREEMENT WITH THE STATE OF OHIO FOR DOWNTOWN REVITALIZATION PLANNING AND AUTHORIZING AN AGREEMENT WITH DOWNTOWN MANTUA REVITALIZATION CORPORATION AND DECLARING AN EMERGENCY. Motion to suspend the rules made by B. Prescott with a second from J. Rogers. All ayes on vote. Motion to approve made by L. Schilling with a second from B. Prescott. Jim commented this is an excellent example of public and private organizations working together. The Village owes them a debt of gratitude. Mayor Hawkins also noted that part of this money came from the Chamber of Commerce. Ben called to question. All ayes on vote.

RESOLUTION 2009-21: A RESOLUTION AUTHORIZING THE CLERK TREASURER TO RETURN FUNDS TO THE GENERAL FUND WHICH HAD PREVIOUSLY BEEN ADVANCED TO THE GERALD F. BUCHERT TRAIL FUND. Motion to suspend the rules made by J. Rogers with a second from B. Prescott. All ayes on vote. Motion to amend as an emergency made by J. Rogers with a second from B. Prescott. Tom Reitz stated Council needs to declare why it is an emergency. Ben said the money has to be transferred so work can begin on the Glacial Esker trail project as soon as possible. Linda asked why we need to do this as an emergency. Ben explained we have deadlines to meet on the Glacial Esker trail project. The Mayor said if we do not do this now as an emergency, it will take three months to pass. Tom summarized that the nature of the emergency would be to transfer the funds to the general fund so that funds are available for other emergency

purposes. Motion to act on Resolution 2009-21 as amended made by B. Prescott with a second from J. Rogers. All ayes on vote.

RESOLUTION 2009-22: A RESOLUTION AUTHORIZING THE CLERK TREASURER TO ADVANCE FUNDS FROM THE GENERAL FUND TO THE GLACIAL ESKER TRAIL FUND, AND DECLARING AN EMERGENCY. Motion to suspend the rules made by J. Rogers with a second from L. Schilling. All ayes on vote. Motion to approve made by L. Schilling with a second from M. Hura. Ben explained how this is what we just went over with the last resolution. All ayes on vote.

RESOLUTION 2009-23: A RESOLUTION AUTHORIZING CERTAIN ADJUSTMENTS TO THE 2009 APPROPRIATIONS AND DECLARING AN EMERGENCY. Motion to suspend the rules made by B. Prescott with a second from L. Schilling. All ayes on vote. Motion to approve made by L. Schilling with a second from B. Prescott. All ayes on vote.

ORDINANCE 2009-24: AN ORDINANCE RETAINING MICHELE A. STUCK, ATTORNEY AT LAW, AS SOLICITOR FOR THE VILLAGE OF MANTUA, OHIO, AND SETTING HER COMPENSATION FOR THE PERIOD FROM MAY 1, 2009 THROUGH APRIL 30, 2011, AND DECLARING AN EMERGENCY. Motion to suspend the rules made by L. Schilling with a second from B. Prescott. All ayes on vote. Tom Reitz spoke up to say this ordinance needs to be amended under Section 10; he did not resign as it states, he served out his term. Motion to approve as amended made by B. Prescott with a second from L. Schilling. All ayes on vote.

The Mayor asked for the appointment of committee members. Jim Rogers stated he did not get that ready for this meeting; continue with last year's appointments.

Committee Reports: Police Chief, Harry Buchert reported the next safety meeting is March 26 at 6:30 a.m. Harry thanked Tom for his service over the past two years with the Police Department.

Village Administrator, Ed Trego reported we are not out of the woods yet, we had two more water breaks last month and one last week. We have some issues on the east end of High Street by the Buckeye. The water main will probably have to be replaced from the bridge up about 300 feet; it is beyond band-aids.

Ed attended a floodplain seminar through ODNR. He brought back information for the Mayor and Council to help update the floodplain regulations here in the Village. FEMA has redrafted a complete FIRM map, which is our insurance map. The Village needs to update the codified ordinances to reflect this change. Ed passed this information on a CD and notebook to our new Zoning Inspector and kept a copy for himself. It is imperative this be totally wrapped up by August 19, 2009 or the insurance is lost to the Village.

From last month's Council meeting, one of the main issues was regarding storm sewers, the lack of catch basins and pipes not doing their job. There has been several walks-through including Linda having her own little group walking around looking at some things. Ed asked Rich lafelice, rather than wait for a Saturday, to stop by on Monday after the last Council meeting to take a survey of some high priority areas around the Village. Brian also took a more in-depth look including some photography to carry back so we do not have to mobilize so many people. A report will be forthcoming and brought to the next Service committee meeting. Ed thanked Tom for all he has done for the Village.

Rich lafelice with C.T. Consultants discussed the southwest quadrant; this work is all under their retainer. They need to continue work with Portage County on sewer agreement with Shalersville Industrial Park. The developer asked the County to reinstate the negotiations

on the agreement due to them being unable to secure funding for the project. Since C.T. has spent so much time on it to this point, he will continue under their retainer other than some legal assistance they will probably need at some point.

In addition, regarding the floodplain legislation, Rich has read it and felt it was a good model. They took the new floodplain, overlaid it on our existing, and found no adverse impact on any properties or buildings. The floodplain boundaries have changed in several areas, but they have not thrown a structure into the floodplain that was not in it before. Rich would offer to give this overlay to the Village so it can be on record, which includes some comments for Council's consideration.

Rich presented some details on the Mats Road bridge project. The Federal participation is always 80/20. We must apply for the remaining 20 percent.

They are working with Dan Banks, grant administrator for Portage County, as well as the Ohio Department of Development because that bridge could open up a small industrial park in the Village and create some jobs. Unless the Village can get the 80/20 together, the project cannot move forward, C.T.'s goal is 100 percent funding; they look for other sources for funding.

Planning: Jim announced the planning meeting has been moved to Wednesday, May 13 at 7:00 p.m. This will be a public hearing on the draft ordinance for the floodplain map.

Service: Linda said the issue last meeting, which Ed was unable to attend, was the storm sewer problems with many residents in attendance. To clarify, it was not her "own little group"; it was residents that she walked around with looking at their flooding problems and drains that are blocked. Linda has put together a list of questions from those residents for Council's review. Many of the storm sewers are blocked. She asked Tom, since many of the residents wish to help the service department, could they do so legally. Tom stated he knew of no legal prohibition to citizens helping their community. He would suggest two things; for one that each citizen signs a release in advance, this would not necessarily exempt the Village from any liability and two that the Village proposes this to their insurance company. It may not be covered or you may need to add a rider to your policy. Linda met with the Mayor and Ed Trego to go over all of this. There is one house on Prospect Street that has a natural spring under the driveway. Pearl Campbell asked what residents should do with all the debris from the drains. Linda said you should bag it and put it to the curb. Ed said the service department always picks up bagged leaves. They would come by and pick up any other debris if they are contacted. Ed spoke on the lack of funding in our storm sewer account to maintain these drains. Presently we have \$200.00 in the fund; we have just spent \$1155.00 on a jet truck. Linda spoke on having two men driving around in a truck and not getting this work done. Ed responded by saying Louie did this work last year, unfortunately, he has been off on sick leave. Linda said the Service meetings are the first Tuesday of each month at 7:00 p.m. from now on.

Parks: Marty thanked Council for approving the transfer of funds from one trail project to another. He attended the Tree City USA banquet and received a 14-year award along with an Ohio buckeye tree. He was told to plant it in a pot for 6 years before planting.

Finance: Ben said the next finance meeting is the Saturday before Council at 8:00 a.m.

BZA: Roger had nothing new to report for the BZA.

Safety: Giles said nothing to report for shade tree. Discussion at the last safety meeting focused on the loss of manpower and loss of patrol. Mayor Donna Hawkins expressed her gratitude to Tom Reitz for all the help he gave to her during her first year as Mayor.

Public: Linda Schilling asked whether we have heard anything else from the school board. Donna has received a letter from the Mantua-Shalersville Fire Department supporting the waterline project at the high school and read it aloud. The Mayor also read some comments received from residents, she has not received any permission at this time. Linda asked what the deadline was for the grant. Brian Rogers said the deadline is next fall, a year and a half from now. Marty said we could turn the grant down at any time as long as we do not use any of it.

Linda Schilling asked Marty how the cemetery rules were progressing. Marty said they are on hold. He was waiting until our new solicitor's contract was approved.

Linda Schilling asked Harry what the status was on the tower. Harry replied nothing has been addressed with the tower.

Linda Schilling questioned several zoning maintenance issues around town and who should be handling it. Jim said to give all information to our Zoning Inspector for review.

Linda Clark asked Jenny about the balance owed by David Benjamin. Jenny said she has not billed him recently. Linda questioned changes to the codified ordinances from last July or August regarding downed trees. Ed responded by saying he thought this issue had been addressed already at a Council meeting. Council members will check on it.

Linda asked regarding the committee appointments for 2009 and why they have not been set. Jim replied that he had some personal issues and simply forgot. Jim said we will go with last year's appointments.

Linda wanted to know who would be responsible for the turning lane by her house on State Route 44. The engineering work was done by C.T. Consultants. It is cracking and sinking. Linda Schilling felt it would be the responsibility of the State of Ohio. Ed responded that the Village is at a tug of war with ODOT; from white line to white line has always been the responsibility of ODOT other than infrastructure. Where it is crumbling, that has nothing to do with C.T. ODOT's administration has changed and now they claim they are only responsible for surface, not for subsurface failure. Ed will contact ODOT and get with the Mayor and them to see how this can be resolved.

Linda Clark asked Council how the legislation comes about, who is authorized to contact the solicitor to put this paperwork together. When something is discussed at a committee meeting, who met with Tom to create the legislation? Is there a meeting that Linda has missed to do this? Tom said most of the legislation is written before it comes to him for review. Council president, the Mayor and Clerk-Treasurer all have the authority to direct him. We are in compliance with Ohio's open meetings law; when legislation is brought before Council, they have the authority to amend, approve or disapprove it. There is no legal requirement for any additional discussion in committee or otherwise prior to it coming to Council.

Linda Clark directed her next question to Donna Hawkins. She asked if there is a job description for the Village Administrator. Donna said his job description is per ORC.

Anita Hanzlik from Glenwood Drive had a concern regarding the storm sewers. 17 years ago, her neighbor had a flooding problem because of the storm sewers and Ed came out right away and extended them halfway through her front yard. He then proceeded to tell her it was her responsibility to carry the pipe another \$200 further down the street. She never had a water problem until the pipe was put there. Her road is an undedicated road and Ed should not have performed any maintenance to it, creating this problem.

The other issue Anita has is with regard to a camper in her yard. She thought she was doing the right thing by putting a driveway in to park it. One of her neighbors complained about it and now she is in violation of zoning. She went through town and took pictures of everyone in violation. She feels this neighbor just does not like her and has threatened to shoot her brother so she filed charges against him. She asked how Mr. Hawkins was appointed on zoning; it seems like a conflict of interest. Her neighbor initiated a call to the Mayor who then called the Zoning Inspector telling him to handle it and then Mr. Hawkins ran the meeting. She felt procedures for running the meeting were not followed. People should have been sworn in and were not. In addition, there were only four members on the board instead of five. If two had voted no and two had voted yes, where would she have been. Anita also believed there was a forged signature on the sign-in sheet. Ashley Hawkins does not exist at this time, we have a falsification of a name and the meeting is invalid. Anita felt even Mayor Hawkins is in violation by having a trailer with a canoe that should be buffered. She commented on things that were said at her zoning hearing including name calling by some of her neighbors. She felt Mr. Hawkins allowed this behavior at the hearing and was finally stopped by Mr. Campbell. If you have rules that have to be followed and she must move her camper by April 29th then so does everyone else in town. Her trailer will not be moved and she will not be penalized. She wanted Council to be aware of this and have it documented on the record. She presented Council with all her pictures.

Lauren Weaver asked to receive a transcript of the service meeting, which had been recorded. Roger said usually he destroys the recording shortly after the meeting. Ralph Gregory said if you record the meeting it becomes a public record, you cannot destroy it. Roger said if it is on the recorder, he would provide it. Lauren asked if this is the policy, to record every meeting. Linda stated the Clerk always records in order to prepare the minutes. Jenny said we record the Council and Finance meetings, she does not know about the other meetings. Linda said if anyone else does tape a meeting, they should let you know that they are taping. Sue also records the meeting; it is out in the open. Linda stated you have to tell if you are recording. Roger asked Linda whether she has a legal opinion on it. Linda said she does have that in writing and would provide that opinion. Lauren asked regarding the petition that was presented 30 days ago; it was said at the last meeting that Ed and the Mayor would prepare a formal plan; she asked when they might see that come together. Donna said Rich answered that question in his engineer's report. Prior to the next Service Committee meeting, he should have a plan.

Ralph Gregory had questions about Council transferring money for the trails. At Mennonite Road, there is a bunch of debris at the end of the trail with potholes all along there that we cannot maintain. There is another dump by the water plant trail. If we knew the storm sewers were in such bad shape, why was there not a shovel ready project for that? Where is the stimulus money for the storm sewers? He also asked if anyone on Council have found through the codified ordinances, the personnel handbook. Council would see that they review Ed, Harry and the solicitor several times a year. Ralph wondered when they are going to start doing that. Ralph said we may not have any money today, but several years ago, we had a lot of money. Ed said himself we have storm sewer issues that are 25 years old. We are either not spending the money where we need to be spending it or we are not getting the bang for our buck from the service department. Linda said we do know that we have to evaluate and it will be done. Marty replied the trail has to be continued up to the road, which is what the debris is there for; we have a plan. Ed said that property was purchased by the Village to be used as a bypass to shut High Street down for any trucking. The Village started hauling whenever possible to help create a base to get up to Mennonite. Since we have not had any funds to move forward on a bypass, the idea of trails was presented. Ed addressed the materials put down at the dump by the water plant.

It contains bagged and loose leaves, Christmas trees and chipped brush all composting into mulch.

Randy Weaver questioned if there were any maps of the drain tiles at University Hospital. Ed said those are private lines. Randy would like to see a french drain on their driveway.

Steve Hentzleman spoke regarding the Village Tavern; the traffic, foul people, drunks and the patio noise levels, which are unacceptable. He appreciates the efforts of our Police Department; however, he feels the Village needs to be proactive rather than reactive. He appreciated the letter he received from the Mayor regarding this issue; however, it did take five phone calls and nine months for a response. Donna Hawkins responded by saying when Steve met with her, she immediately met with the Chief of Police. As far as she was aware, the problem had been resolved. Since that time, she has met numerous times with the Chief as well as spoken with Theresa from the Village Tavern. Theresa took it upon herself to put up a privacy fence around the patio. This has gone to our Safety Committee. Donna highly suggested that Steve come to the next Planning Commission meeting. Questions arose as to who was responsible to monitor who is served and when they are cut off. Tom was asked if he could answer who is liable. Tom said the municipality's responsibility has been met with the chief responding to any intoxication, driving while under the influence or disturbing the peace, which is a crime. The responsibility of the establishment, whether it is the owner or a bartender, is a private matter. It is beyond the scope of what the Village can or should be doing.

Chris Zimmerman felt she picked the right neighborhood to live in and is grateful. The first flood she was involved in, the Mayor responded to immediately. She asked whether the Village has a no burn ordinance. Council said yes, you should contact the Fire Department. Chris asked if this information could be placed on the Village website or in Mantua Matters to remind residents. Residents are allowed a three-foot ring for cooking purposes only.

Linda Stevens from Line Street commented that all water problems come down to her property. She has all kinds of pipes from everywhere draining around her. The ditches are filled with gravel, dirt and debris. Ed responded to Linda Stevens on her water problems. What needs cleaned is on private property; Ed will check with our solicitor and see what can be done to help make that happen.

Dave Sluka from W. Prospect Street said his is the driveway with the natural spring. Who is responsible for the repair of that? Ed replied it is generated on private property; the Village cannot remedy it. Tom commented that if the origin of this water comes from your property, you are responsible for the condition of your property. If your property is the source of water going to other properties and creating a hazardous condition, it can be one of two types of nuisance. A public nuisance is one, which affects the public at large. The law in Ohio regarding ice, which naturally occurs in this part of the country, states if there is a manmade condition that causes the ice to be hazardous, there is some liability. Anita Hanzlik wondered why the Village would not be responsible for their lack of maintenance on storm sewer drains but homeowners could be held responsible for damages from water on their property. She felt this was a contradiction. Ed believes there is no storm sewer on that section of road up that far. All the water runs to the other side. Tom also responded by saying if the Village could fix all the problems, they would. They are going to try to prioritize the problems. He does not believe there is liability to the whole community when it is simply beyond the governments means to fix it. There are protections in the law to provide for that.

Steve Hentzleman asked whether a citizen could hire Ed Trego to work on a private situation, to take care of a problem. Set it up in such a way as to generate revenue for the Village. Tom responded some municipalities perform services for fees; this would be a

policy decision of Council. Ed has stated with great regularity that he needs help; he is understaffed and does not have the equipment or the employees to meet the responsibilities that he would like to be able to meet.

Ed wanted to clarify about the "little group" he was referring to with Linda; he was not trying to be demeaning to anyone.

Giles spoke on money flow and the loss of businesses. It is a real problem. Any attempt for a tax increase on the ballot has been soundly defeated.

Randy Weaver asked why we are wasting our time on grants for Mats Bridge when we have \$200 to fix storm sewers. We need to fix the Village and stop having C.T. look for money to do everything else. We are all sitting here tonight to see what we can do to help.

Village Solicitor, Tom Reitz, spoke to Council on his last evening with them. He thanked Council for the last two years, appreciated the opportunity to work with all of you and wished the Village well.

Motion to adjourn the meeting at 9:48 p.m. made by J. Rogers with a second from M. Hura. All ayes on vote.

Mayor Donna Hawkins

Clerk-Treasurer Jenny August