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President Baker called the regular meeting to order. Councilman Denny Miller offered the prayer. The Pledge was recited by all.

Roll call: Shupp, Miller, Vance, Hamsher, Aspiras, Corfman, and Leathers were present.

Corfman moved and Hamsher seconded that the minutes of the February 1, 2010 regular meeting be approved. Roll call vote. Ayes all. Motion carried.

Public Comment: .We have three people who have requested public comment. Just as a reminder for those people who will be speaking, we are limited to three minutes for public comment. If someone from council has questions of you after that there is no limit on those questions, but your comments will be limited to three minutes. We are allowing these comments this evening more as a courtesy than anything else because there is no legislation before the Council concerning this issue. We will be going in the order in which the requests were received. When you come up to the lectern to speak please state your name and address so the Clerk can write that down for the record. The first person we have this evening is Brian Bilinovich.

Brian Bilinovich, 18268 Warwick Road, Marshallville: I am here on behalf of a group of residents who are opposed to the development of a proposed bike/walking trail by Rails-to-Trails of Wayne County. The group consists of 30+ residents of Wayne County that have land which adjoins or is bi-sected by the abandoned right-of-way. This 9 mile right-of-way that connects Clinton to Orrville was abandoned in 1985 and has been recently purchased by Rails-to-Trails of Wayne County. Our group owns over 90% of the lands that adjoins the right-of-way. Our opposition group consists of mostly farmers, but others include business owners and other residents who have homes here. This purposed trail will be an economic detriment to the local farming community. There is great risk due to public exposure. These farms are required to follow USDA bio security guidelines which call for isolation, sanitation, and traffic control. Liability exposure becomes a concern as well. Attractive nuisance law rights would be a concern not just for farm animals such as buffalo and cattle, but other land features along the right-of-way. These farms bring in a tremendous amount of revenue for the local communities and state. One particular farm that will be impacted produces about \$10,000,000 worth of product a year. Other related local businesses will be impacted if these farms cannot as business as usual. In some cases the right-of-way passes within 100 feet of residences. Thousands of crimes ranging from vandalism to murder occur on these bike trails every year. An investigation of recent crimes committed on these bike trails has been done. There is an attachment included in this packet of some of the findings. My family and I own a 130 acres that is bisected by this right-of-way. We have a 5 acre stone quarry that is less than 50 feet from the right-of-way. The quarry is 40 feet deep with water and has 20 foot sandstone cliffs around it. We have a 10 year old organic apple orchard with 250 trees within 75 feet of the right-of-way. The residence is within 200 feet of the right-of-way. We enjoy hunting and shooting guns on our property. This proposed trail will adversely affect our way of living. It is not going to allow us to enjoy our property as we have for the past 15 years. This will cause hardship for access to our lands as well. Due to isolation and rural setting of the local area, our safety is a great concern. We have already gated, posted and fenced our property to keep trespassers out. This has been very effective so far. This proposed trail will open the flood gates to trespassing and crime. Our position on this trail has support of the local government and other agencies. They include the Wayne County Commissioners, Wayne County Farm Bureau, Chippewa Township Trustees and the Baughman Township Trustees. I have included their support in the attached documents and local newspaper articles. We already have bike/walking trails in or within minutes of our communities already. Why do we need another one at the cost of farmers,

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landowners and taxpayers? We are asking for your support to take a stance against this proposed trail. We would ask that you not support any grant requests as well. Thank you.

Vance: Thank you Mr. Bilinovich. My question is how are these farms different than farms along hundreds of other miles of bike trails throughout the State of Ohio?

Bilinovich: From what I have learned and I am not a dairy farmer, but these dairy farms and these townships in these local communities are the biggest in the state. And how these are different are, as I said in my letter, the guidelines by the USDA that they have to follow and that is they are obligated through isolation, sanitation, and traffic control. They are obligated to control who goes in and out of their farms. It is affecting the animals and the food we eat. Under USDA guidelines they are obligated for that. I can't answer to other trails and other farm communities. But these particular communities that is how the farms are affected.

Vance: Thank you. I understand you can't speak for other farms in other areas. It is just a question that I have personally. I am sure there are many farms that abut these bike trails and they have the same kinds of obligations.

Bilinovich: Some of these farms have been using these right-of-ways since 1985 when the tracks were pulled and they have grown accustomed to using these right-of-ways for farm machinery and transportation of livestock. At times they use them 100 times a day. These are right in the middle of their farms.

Vance: Do the farms own the right-of-ways now?

Bilinovich: In certain cases they have leases, easements.

Corfman: They do not have current easements though, right? You know the answer.

Bilinovich: I am not going to get into a legal discussion.

Corfman: You just said they did.

Bilinovich: Yes they do.

Corfman: They do not.

Bilinovich: Okay.

Corman: They are owned by Rails-to-Trails.

Bilinovich: I have documents that say otherwise. I am just here to discuss our issues tonight. This is more of a political agenda, the legal strategy is something different.

Hamsher: You said you have attachments and documents?

Bilinovich: Yes. I have a packet of information for you.

Wilbur Herr, 413 Briarwood Street, Orrville: I was born in Orrville and a resident for 77 years.

Christmas morning of 1938 when I was six years old my parents and I went to the Orrville Depot boarding the Doodle Bug. The Doodle Bug passed through Marshallville, Warwick, and Clinton and then onto North Akron where we were picked up by relatives for Christmas day. It has been my hope that Orrville would get connected to the Ohio Canal Corridor via the abandoned C&C Railroad and I am looking forward to retracing the route of my 1938 Christmas trip on a bicycle; hopefully, not a wheelchair. I urge Orrville City Council and the Orrville Administration and the community to support Rails-to-Trails in this endeavor. I am not alone in believing that the trail is a win-win situation for not only Orrville, but for the communities it passes through. The trail has both recreational and economic benefits. Recent front page articles in the Daily Record have painted a negative view of which I and others have not witnessed. I find the trails to be clean and well maintained and the farming areas cross over provided for access to fields and crops. Personally, I have never encountered a piece of farm machinery crossing the trail or come in contact with a farm animal. A mild vial threat; I don't think so. I find trail riders to be friendly and respectful to others and the trail and surroundings. I see trail neighbors who embrace the trail by planting flowers for trail users to enjoy. Perhaps some of you have watched the PBS Ken Burns series on the National Park System. We learned that many men involved could see beyond the use of their lands for economic gain. They had a vision that these beautiful lands be laid aside for future generations to see and enjoy. It was not an easy task. Many spent their entire life in the effort forward and some their entire fortunes. I see each trail as a mini national park; a safe place to ride and enjoy the outdoors. A safe place to ride with our children and grandchildren. Rails-to-Trails vision is stated as "creating a nationwide network of trails of former rail

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lines and connecting corridors to build healthier places for healthier people.” That vision deserves our support. I urge those who have reservations or oppose the trails to reconsider and see the benefit for our children and future generations.

Keith Feeman, 529 S. Vine Street, Orrville: Last year in 2009 the State of Wisconsin did a study that casual cycling brought in \$1.6 billion dollars to the State of Wisconsin. In this economic time how can any community not back a trail system. A study done in 2005 in the State of Massachusetts found as for property values along trails going down was a falsehood. Property along a trail sold for 95% of market value and it sold 75% faster than properties not on a trail. In the same town the property values that were not on the trail were selling for 80% of market value.

Vance: As you started to say originally, just so people are clear; Orrville City Council has no vote, no say as to what is going on with the Rails-to-Trails project. Right now there is a local group that is interested in putting in a trail head here in town if this trail comes to a fruition to connect our community to the trail, but we understand there are two sides to this. But we simply don't have anything on our agenda nor do we have the ability to take any action on the proposed trail outside the city limits. I just want to make sure people were clear on that.

Shupp: He mentioned a trail head coming into Orrville. Do you know where that would be placed or where it would start?

Corfman: There has been discussions about that. Several of us here have been in those committee meeting. It is just a community gathering so far. It will move along as time comes as the trail gets complete, then we will look into where we would want to put a trail head. There is a lot of consideration; what crosses Main Street; what corporate involvement we may or may not have. There is a lot of things yet to come on that. It really is still open to discussion.

Shupp: I take it the trail would actually go through the community crossing our streets.

Corfman: When we changed Lachoe to Apple, we changed the name and replatted it; at that time it was made wide enough so Apple then would go back past the city dump – for lack of a better term – and go back into some easements back in there and it was made wide enough to include a bike trail. That was done with the consent of the Smucker Company. That was done under Becky Jewells time.

Shupp: So I take the trail wouldn't actually follow the railroad right through town.

Corfman: No, once we hit the active rail, we go off of it.

Baker: Anyone have any other comments? Seeing none we are going to move to our standing committee reports.

Standing Committee Reports:

A. Finance – Mr. Miller reminded everyone of the special meeting on March 8th after Utility Board that will be the second reading on the final appropriations. At that time there will also be a workshop and some further discussion on the capital improvement situation and projects that will be upcoming.

B. Utilities – Mr. Vance had no report other than to inform Council that myself, the Mayor, and Mr. Brediger are going to Washington DC next Monday for an American Public Power Legislative Rally to become more familiar with the issue that we are facing now with our municipal power plant and to meet with as many representatives as we can while we are there.

C. Health & Safety – Mr. Corfman had no report, but will note I had out a report to Mayor, Council, and Safety-Service Director that does have empirical data that does back up some of what has been eluded to as far as the safety of trails and the increase in value and how they are good for the community. They are facts. They are peer-reviewed studies, not just innuendo.

D. Parks and Recreation – Mr. Aspiras had no report other than there is a not of snow in the park.

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E. Transportation – Mr. Shupp had no report, but would like to mention that the last couple snows we have had our Street crew has done a much improved job of getting the snow off the streets. I would just like to thank them for the improvement and just keep it up.

F. Planning – Mr. Hamsher had no report.

G. Ordinance & Personnel – Ms. Leathers reported the committee met last Monday to review several items. Our work is not done. We will be reviewing compensation for elected officials and some of the appointed officials as more information is gathered and can be studied. There is legislation on tonight's agenda in regards to the Law Director's salary and I will speak to that when we get there.

Special Committee Reports: None.

Administrative Reports:

A. Mayor - Mayor Handwerk tagged onto Mr. Shupp's comment. It is no surprise to anybody we have had a tremendous amount of snow here the last few weeks and while I know not everyone is happy all the time about whether the snow gets moved quick enough or whether it gets plowed in front of their driveway, please try to be patient. I think our crews have done a very good job. They have put tremendous amount of time in the last few weekends and during the week. And that doesn't just go for plowing streets. I know one night we had people down here all night cleaning up all the snow from downtown so people could get in there and park cars and so forth. It is a lot of work. We have all had the same thing happen to us; in a perfect world you would be just about to the end of your driveway and then they would come and plow and you could clean it off and you would be all done. It has happened to me, just like other people, I have just finished and went in the house and see the plow go by and realize now my driveway is clogged. It is not just certain people that seem to get angry about that; we all face that and there is just nothing to do about that. If we are going to plow and get the streets clean, then the snow is going to be in the driveway. Just try to be patient with that and remember we are almost to the end of February so maybe we will be done pretty soon.

B. Safety Service Director- Director Wheeler reported that as Mr. Shupp and Mayor Handwerk mentioned, the street crew has worked significant overtime hours over the last few days; particularly in the last week or two. I seen an estimate today that we had almost 21" of snow in the month of February so far which is nearing a record and here it is only the middle of February and that was before today's snow. So as a result of that the Street Department has committed a lot of hours. The Utility Department has also sent folks over to help and we appreciate their support as well. I would just like to commend our guys as well as the Utility folks that have helped us in order to do a pretty good job that they have done so far. As the Mayor mentioned, we appreciate everyone's patience. There is a lot of snow out there right now and we are really making an effort to do the best we can. Also, consider this a reminder that everyone is required to clear your sidewalks of snow and ice. The City does realize a lot of snow has fallen, but keep aware there are school children that use those as well as other pedestrians and it does present somewhat of a safety hazard when they exit out onto the street because the sidewalk hasn't been cleared. I think, for the most part, everyone has done a really good job of that; unfortunately, there are a few that have not been able to get to it so just a reminder that they need to clear their sidewalks.

Shupp: Just as a follow up, I would like to ask the citizens to please not plow your snow back out into the street. I am still seeing that frequently around different areas of town.

Wheeler: Good point Mr. Shupp. That is exactly right. We do appreciate everyone's efforts and just a reminder not to plow into the street as well as make sure you plow your sidewalk.

Hamsher: Can you just refresh our memory and help us understand what the procedure when you send them out and how it is done.

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Wheeler: Honestly it does vary from storm to storm. It depends on what the forecast is and how much we are going to get; what time of day it is supposed to hit; all those kind of things. The plowing typically doesn't start until 3" of snow. They do typically try to get the salt down as quick as they can and then once there is 3" they are able to plow that out. There are priority streets. That is the realism of the whole process. Obviously there is #1 streets, #2 street, and #3 streets and it is based on the traffic; which makes a lot of sense. So Main Street is going to have top priority. I live on an alley. My alley gets last priority; even for me it gets last priority. That is just part of the process for the plowing so keep that in mind. Not to say that your ability to travel is any less important, but we are trying to get as much bang for our buck as we can from our time and our resources and that is why we prioritize streets accordingly.

Hamsher: I appreciate it. This morning at 6:00am I had plows going down and I am a #3 street so I don't get it as soon as I would like, but I appreciate them being out last night.

Handwerk: They were trying to make sure you could get to school. I didn't work out I guess.

Hamsher: I hated to stay home. I suffered through it.

Aspiras: Mr. Wheeler can you just update us on where we are with our salt supply and how the equipment is holding up.

Wheeler: The equipment is holding up. To be honest there is some aged equipment that at this time of year we have at least a truck or two that is in repair. Rotationally one is fixed and the next one needs a little TLC so that is just part of the time of year; the plowing and the amount of time they spend out there you do get some equipment issues. We have used a lot of salt and to be very candid, one of the reasons that you are seeing very good results the last few times is that we have used the amount of salt necessary to get that done. With that being said, we have been fortunate this year that we do purchase salt through the Ohio Department of Transportation contract so our salt cost are at the low \$50 range where as last year at this time it was in the \$120 range. So we are fortunate from that standpoint that though the winter has been heavy, the salt costs have decreased tremendously. Salt supply wise we are in very good shape. I believe we had 250 more ton delivered in the last few days and with the DOT contract what is great about that is the response is fantastic as compared to what it might have been in years past when the city of our size was calling a salt supplier saying we need it right away. They tend to respond a little quicker when you have DOT sort of backing you up and supporting you. The salt has not been an issue for us as far as getting it here and having enough adequate supply. The issue has been that we have had a lot of snow in a short amount of time and as a result we have used a lot of salt as well.

C. Utilities Director – Director Brediger has not report.

D. Finance Director – Director Strimlan had no report.

E. Law Director - Director Lutz had no report, but can answer a question that I was asked prior to the meeting about roll call votes. One of the council members asked why we have to do everything by roll call vote and it is because, it is not in the Charter, but it is in the Rules of Council which you guys can change if you want to. You can do a hand vote or stand up to vote. You don't have to do roll call votes on everything. So if that is something you would like to change, that can be changed pretty easily. It can be changed by unanimous vote right now by Council if you chose to do so or submit it in writing at a regular meeting and then schedule it for a vote on amendment at the next regular meeting. It just takes a majority vote of Council to change that. So if that is something that Council would be interested in doing in terms of changing that so you are not doing the roll call vote every time, that can be done.

Vance: I was the person. I thought that was in our Charter. It is in our Rules of Council. I think taking roll call vote for every little matter of Council is a bit unwieldy; especially when we are approving the minutes or very routine kinds of things. I don't necessarily feel a roll call vote is required in some of these routine situations so that is why I raised the question and would like to maybe look at that to see if we can help our meetings move along a little better without taking a roll call vote for very routine matters...and save Tamra's voice.

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F. President of Council – President Baker wanted to make the same comments that other people have about our crews that have been moving the snow around and keeping our streets as safe as possible. Even though our City employees are doing as much work as they can, they are not always going to get every bit of snow right away. This evening was a good example. The snow came down in a hurry before everybody could get around streets started to get slippery so I would just like to remind everybody to please drive safely and keep your eye on the road. Don't worry so much about if it has been plowed. Just because it is a 35 MPH speed limit doesn't mean that is how fast you have to go. If you need to go 10 or 15 in order to be safe, that is what you should do.

Corfman: On our public comment as I check the website; when you go online it does not say public comments must pertain to City business. I do believe that is in our rules, but it is not on our website. So someone coming in, in all fairness, would sign up to speak to council about social security or the war in Iraq or anything. Online they did not see that was not applicable.

Wheeler: Mr. Corfman that is actually in the Charter itself. We did look that up today to confirm that.

Corfman: That we can't do that or?

Wheeler: No, it does say that public comment must be pertinent to city business.

Corfman: On our website where they can register to be a public speaker to speak to the council it is not.

Wheeler: We will get that on there.

Baker: Someone will put that on there Mr. Wheeler?

Wheeler: Yes, we will get that on there tomorrow.

Old Business:

RESOLUTION 4-10

Leathers moved and Aspiras seconded that Resolution 4-10, a resolution authorizing the Safety-Service Director to enter into a contract and/or contracts for the lease of space for the sale of soft drinks, ice cream, candy, popcorn, peanuts, and other like items at Orr Park for the years 2010 and 2011, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Baker: Mr. Wheeler, how many people have been interested in this so far?

Wheeler: Mr. Plybon.

Baker: Just one?

Wheeler: Yes to be very honest with you. At this point though we have not made those calls that we will make in regards to going out for interest and seeing if people are interested in giving us a quote.

Leathers moved and Aspiras seconded that the rules, regulations, and statutes requiring a reading of a resolution on three separate days be suspended. Roll call vote. Ayes all. Motion carried.

Leathers moved and Corfman seconded that Resolution 4-10 be adopted as read. Roll call vote. Ayes all. Motion carried.

New Business:

ORDINANCE D-10

Leathers moved and Aspiras seconded that Ordinance D-10, an ordinance accepting the Orchard Glen Development Plat, Green Township, City of Orrville, Wayne County, Ohio, and confirming the dedication of Grace Lane and Clay Court and easements set forth thereon to the public use forever, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Wheeler: This ordinance does officially dedicate Grace Lane and Clay Court, as well as the storm water easements as well as utilities at the Orchard Glen Development over to the City of Orrville. They have completed their work to our satisfaction. We did review the plat and made recommended changes to that plat at least a couple time and the plat is now satisfactory to us in the Safety-Service Department. Glen Shultz from WODA, which is the development company in charge of the Orchard Glen construction, is here to answer any questions you may have that I wouldn't know the answer to.

Vance: What are we approving? Are we approving the development or just the location of the water and storm lines?

Wheeler: You are actually approving the City of Orrville taking over responsibility of the roadway and easements.

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Vance: Has the development itself been approved?

Wheeler: The development was approved when they actually applied they came to council and it was approved at that time. Now the construction has been completed and now it is time to dedicate.

Vance: This is the current one, it is not a new one?

Wheeler: This is the current one that has been completed. To finalize the one that has been completed.

Aspiras: This piece of legislation does not include the retention basin?

Wheeler: The ownership of the detention basin will remain with WODA. Historically, the City has not assumed responsibility for the detention basin maintenance. We do have a bond in existence. They have a few final things to complete; unfortunately, the weather caught up with them on that so they will be back in the spring to complete that. We do have a bond in place to ensure that is completed.

Baker: Mr. Shultz is here this evening if anyone has any questions of him.

Mayor: Orchard Glen and Glen Shultz, was it named after you?

Shultz: It was actually named prior to me coming. I am Glen Shultz. I represent the WODA Group at 229 Huber Village Blvd in Westerville, Ohio. We are the developers of Orchard Glen. Mr. President, Mr. Mayor, and members of Council I would like to thank you for all the support we have got over the course of the time that we have done this development. I think it turned out very nice and I think it is an asset to the City and I appreciate you taking a look at our plat and getting ready to take over some streets and easements and utility lines that we have installed and I think we are in very good shape to be turned over to the City.

Vance: I am very happy with the appearance of the development. While you are here, just take advantage to review what this development is. It is not a regular housing development. I have received a number of questions about it. Since it went up people's curiosity about it has peaked and perhaps you could just very briefly review how this system works.

Shultz: It is a private development, but during development time period we go to the State of Ohio and we request tax credits and lenders and investors buy into the tax credit program which is supplied either by the federal government or by the state and when they do that helps us finance it. They buy the tax credits. They get the tax credits taken off their taxes and in turn we receive favorable funding to build this type of housing. One of the agreements that you make is that you will fall within these tax credit guidelines. It is called a low income housing tax credit program, but that actually has numerous parts to it all the way from HUD financing all the way to the type of development we do which is assisted housing. That assisted housing just means that we target a group within a certain income range. They are not income qualified. In other words if they come in it is not if they get a voucher for \$100 that is what we rent it to them for. The lease on our properties are the leases and if you fall within the guidelines, that determines you are eligible to live there. It does not determine your rent. If your rent is X amount of dollars, it is X amount of dollars no matter where you fall in there. It encourages people that are starting out to come and lease from us. That is our prime target area for a multi-family type development. We have senior developments that target seniors. This one here targets families that are just getting started and after 15 years that tax credit program reverts into a sale program and anyone that is living in the home currently will have first option to buy it with some credit given to them for the amount of years and the time they have leased there.

Miller: If I recall right, in the beginning there was a minimum income of \$30,000 or something like that as an eligibility requirement.

Shultz: I honestly can't address that because I don't know what sets the parameters. I know the parameters are set by the medium income and so much percentage, but it is all set by the State. I don't know.

Miller: Do the residents pay into an association fee type thing like a condo situation for plowing and mowing and that kind of thing?

Shultz: At this particular time, the residents do not pay into it since all the properties are owned by the owners which is Orchard Glen LLC. We have established a homeowners association so that the areas that Mr. Wheeler just discussed a moment ago such as the pond and any common areas can

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be maintained for the duration. They don't need to take that over at this point because the developer is taking care of it so an active homeowners association really has a membership of one which is Orchard Glen LLC, the owners of the property. The plowing is taken over by the city once it becomes the City's streets and each homeowner is responsible for the sidewalk just like anybody else is and we got our notice along with everybody else that the sidewalks are meant to be done. Each individual is responsible for their own utilities at their home and they are also responsible for mowing the grass; keeping their yard up; keeping everything taken care of. The owners, through WODA management who has an onsite manager, they are responsible for all the common areas at this time and they are also responsible for all repairs, anything that goes wrong with the house. The residents are responsible for minor things such as changing light bulbs, but if the gutter is coming down or something like that is happening or a railing is broken we are going to take care of that. The management company takes care of those things.

Aspiras: I don't know if you can answer this question or Mr. Wheeler, but I know when we passed the nuisance ordinance and I am not suggesting there is a problem here at Orchard Glen, but I know we talked about trying to get that nuisance ordinance along with the lease or rental agreement to the ownership ahead of time and that would be part of that packet and possibly part of that rental/lease agreement. Has that been done in this case?

Wheeler: I don't know that they have actually utilized the nuisance ordinance. The Chief may be able to answer whether or not, I don't believe we have had any nuisance calls out there.

Carazzo: Not at this point.

Aspiras: I know that was one of the items that we discussed working up to that ordinance and even some of the landlords had brought that up that it is tough for me to do that; it is not in their current contract/lease; however, when they go to renew I certainly will pull that nuisance ordinance in and that will be part of that contract and lease. I was just curious if that was part of this set of 31 homes.

Shultz: I am sure I can get ahold of the management company, the lady that is in charge of it, and I can get you a copy of the lease agreement that everybody is subject to for leasing within the subdivision, but I don't know if it is actually specifically written in there or not, but it is a public place, a public street. They are responsible to your ordinances and I think we would have a difficult time enforcing something that is a law because we are a leasing agent and certainly if we have a problem that requires the law to come to someone's home say repeatedly or certain offenses there is stipulations in there and they will not be leasing from us any more. There are covenants as well including what type of out buildings. I cannot remember them all off the top of my head, but I know there are restrictions and covenants and those are on forever. Those are on the plat and everything forever unless someone later on wants to put a different style of building on there that is allowed by the restrictions they would have to come to this Council and get that okayed to be done.

Aspiras: Don't get me wrong, I am not implying that there are problems. We welcome those families here to Orrville. We are glad to have them; just trying to be proactive. That was one of the things we talked about.

Shupp: How many units did you put up?

Shultz: 36.

Shupp: And how many are occupied at this time?

Shultz: 36. They were leasing as we were polishing the door knobs. People were moving in. Most of them are from within 3-5 miles of this building.

Leathers: My question is for Mr. Wheeler. I noticed on the plat there is a stump there on Clay Court and it is adjacent to City of Orrville land. In your crystal ball; the plans are that some point down the road eventually to continue that street to somewhere?

Wheeler: Yes.

Shultz: Once again I thank you for your time and cooperation. Steve and I worked pretty closely over the last year or so and I think everything has went fine and if you have any problems, Steve definitely knows where to get a hold of me. Thank you once again.

RESOLUTION 5-10

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Leathers moved and Vance seconded that Resolution 5-10, a resolution fixing the salary of the Law Director of the City of Orrville, and repealing all legislation inconsistent herewith, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Leathers: Our committee did meet in regards to this and the committee has decided to raise the Law Director's salary and actually it is not just Mr. Lutz personally, it is the firm that we retain. They are very available to us if Mr. Lutz for some reason is not in the office there are other lawyers there that are very experience with our type of needs and someone is always available to answer any questions that we have. The committee looked at a lot of information provided by Mr. Lutz and by others in regards to comparable cities and we have discovered that our law director is grossly underpaid for what they do and we would like to make an attempt to come into line with that and that is why we are raising the salary.

Vance: When you say we are coming into line with that, my impression is that we are even still below.

Leathers: We are still below. I said it is an attempt to come into line. Baby steps basically at this point. Some cities that are comparable with our size, our law directors' salary is up to half of what other cities' are.

Miller: Currently the Law Director's salary is \$27, 037 and the resolution takes it to \$35,000 just so we are clear on that. I just want to preface my remarks by saying that I certainly have nothing but the utmost respect for Mr. Lutz and his work and I do believe that you probably are underpaid; however, there are a couple things that do concern me about this and one of them would be that we were given a list of a compiling of information about cities with a population from 5000 to 20,000 and the average salary of a part-time law director in that scenario was \$37,109. Now knowing that Orrville's population is 8551, if we take the cities that are 10,000 and under in population and look at them and then look at cities that are over 10,000 in population the average salary of a part-time law director in cities of 10,000 and under in population is \$28,911. In the cities that are over 10,000 in population the average salary is \$43,258. That is a bit of a discrepancy there that makes that \$37,000. My contention is that looking at cities closer to our population level is probably a more valid comparison. Now if you say we have got public utilities here and we have to factor that in, well if you just take the list we were given of those cities with utilities and break it down the same way, the average salary of the part-time law director of population under 10,000 in that scenario with utilities is \$27,390. My contention is that the average salary is really somewhere between \$28,000 and \$29,000 plus so yes in deed we are under paying our law director, but I don't believe to the extent of the resolution. Also, the other thing that concerns me right now is that we are obviously in an economy that even though we are calling it a recovering economy it is a very slow recovery. There are still a lot of people in Orrville that are out of work, looking for work, they can't find work, foreclosures all over, and an increase in salary of 30% in light of that to me just doesn't make sense right now so; therefore, my vote is going to reflect all this information and I just wanted to go on record with that in all due respect to the law director.

Hamsher: I also looked at the information we were given and I think the Law Director does a great job. I am the new guy and I have learned quite a bit. I have talked to Mr. Brediger, Mr. Wheeler, Mrs. Strimlan, and Mr. Lutz and all my colleagues so I am learning, but I did take the information and I came up with the same numbers you did, but then I looked at the ones that transmitted or generated electricity and there were six there. If you take those six and you get \$45,558.67. I don't know exactly what that entails, but I am learning that entails a lot. I understand that there are some contracts and agreements that are several inches thick that our law director has to review and is on call whenever we want. He is open; his colleagues are open. The position is well worth it and he is in the past four years I believe, we have only increased the position 3% since I believe 2006. He didn't take an increase in 2007 nor in 2009.

Miller: That is not true.

Hamsher: He went from \$25,750 from 2006 to 2008 if I am looking at my information correct. At any rate, it is well worth it and I am a yes.

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Leathers: One other factor to consider, and the reason why I made a point of saying that we are actually retaining the firm and not just the person, is that Mr. Lutz's law firm as a whole has to decline any offers of representation for anything having to do with the City of Orrville and that is a potential loss of income for the firm. Obviously that is hard to measure because you don't know whether someone would have hired them or not, but that is a consideration that must be made; that because of their association with the City of Orrville they cannot take on any kind of representation in a case that has to do with the City involved.

Hamsher: Mr. Miller pointed out and I apologize, it was an 8% increase in the last 3 years.

Shupp: I might mention to that the firm is not getting the PERS or the \$1200 for health insurance.

Leathers: Mr. Lutz is getting that, correct.

Lutz: I just want to make sure it is clear for the public and the paper that we have thrown around that the law firm is retained; technically I am, Dan Lutz is the Law Director and what Ms. Leathers means is that the income I get from the City goes to our law firm, and it should, because as Ms. Leathers explained, anytime there is an issue that would involve for example the Orrville Police, we will get at least a couple calls a month where someone wants to retain one of the lawyers in our firm for a traffic offense or criminal offense and if it is involving the Orrville Police we have to turn it down. I was just standing at my secretary's desk today and a call came in and she said I am sorry we can't take that, we have the law director in this office and we have a conflict of interest. That happens, according to my secretaries, at least a couple times a month that we cannot be retained and sometimes they are big cases like felony cases that would have a high retainer. I just want to make it clear that I am the appointed law director, but our law firm is available also for questions. For example, if there is a question that needs to be answered right away and those do come up from the Finance Director or Utility Director or the Safety-Service Director. There is always someone at my firm who can answer that in my absence; whether it be Mr. Vansickle who is also the solicitor for Dalton and Doylestown or Mr. Kropf who was my predecessor for many years in this position before me. And lastly in regards to Mr. Miller's statements; really the generation of electricity is what produces more of the work, not just transmission, not just that you have a water or sewer utility. It is really the communities that generate electricity that cause more of the work and Mr. Brediger could address that further if you want to know why that is, but it just involves more complicated factors and more issues of law and in those population ranges between five and twenty thousand there are not many communities that equate to Orrville. We did a lot of work over the year; actually it was our Clerk of Council's daughter who is one of my secretaries who called a lot of communities, e-mail a lot of communities to put these spreadsheets together and if you really want to compare apples to apples as I indicated in our committee meeting the closest two communities would be either Dover or Oberlin and the part-time law director at Oberlin where they generate electricity using a diesel generator which is less involved than a coal-fired plant makes almost \$65,000 a year with a \$12,000+ secretary allowance. Same duties exactly as I have. They don't prosecute cases. They are the part-time law director. They get PERS and health insurance. So Oberlin is actually the closest to what we do here and is actually a 1000 less in population. Dover is probably the next closest with 12,000 population. Again, makes \$65,000 a year and has a substantial secretary allowance. It is difficult to narrow it down because there is not that many communities our size that generate electricity, but I tried to do my homework and put together as much data as possible before I even came to ask for a raise. I didn't ask for a raise last year. I gathered all this data over several months and am just presenting it to Council to just say look here is the data, you decide what's fair, what the market rate is for part-time law directors. That is all I am asking is consideration of Council in regards to the data that has been presented. Thank you.

Vance: I was out of town for the Ordinance & Personnel Committee meeting. As I reviewed the information that Mr. Lutz had presented, I fell more on the side of what Mr. Lutz is saying; that there are very few communities that are as small as Orrville that are producing the amount of power we are and all the associated contracts that go along with that. The numbers I am hearing from Mr. Miller are quite a bit lower than what my own analysis was and I wonder if it is because we are not doing apples to apples; we are using a much broader range of communities that don't have the

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additional work load that comes with having our own power generation capabilities. My impression was, in reviewing the information, is that we were much closer to Oberlin and Dover and what the duties of the law director was. In my mind, that weighs very, very heavily in our decision on what the cost of legal representation should be correspondingly to the kinds of legal work that we have. I don't put as much weight into what the average salary is because I don't necessarily think it is an apples to apples. It is very, very difficult in our situation because there are very few communities as small as we are doing the amount of legal work associated with, especially with our own municipal power situation here. That is part of my thinking on this. I want to look at communities that as closely match Orrville as possible in the kinds of legal work that we are doing.

Aspiras: I was at that committee meeting and I know there has been a lot said here. Just to make a couple comments; I think, and correct me if I am wrong Council, but I think when we had the committee meeting we all agreed after looking at all the data and there is a lot of data that we had, that Mr. Lutz and his firm were underpaid in comparison. I think we all agreed to that. Then the question moved to well what should it be. So we look at this \$35,000. Yes, you could compare it to Oberlin which is close to double that. Oberlin also has a secretarial allowance of \$9,600 and this piece of legislation does not raise the secretarial allowance. That will stay. I think we asked the question in committee, okay what if we was to say let's start shopping and I think we all agreed the quality of service that Mr. Lutz and his law firm gives us is outstanding. So I believe the consensus was in the Council that if we did have to shop this, we would be hard pressed to do any better. I am in support of this. Again, what Mr. Hamsher went over as far as the increases over the last three years, I think we all agree we need to get Mr. Lutz and his law firm up to date. I believe we also agreed in committee that we don't want to do this every two or three years; come in here and say we are three years behind. I think we all agreed in committee that going forward we are going to try to look at this every year so we are not facing trying to play catch up. I think that is the plan also going along with this piece of legislation.

Corfman: I don't think we are going to find truly any comparison to Orrville. We are clearly unique; under 10,000 with more than 50 megawatts of coal-fire boiler. This is going to be unique where it is going to be a judgment call. I don't think we can get down to a spreadsheet decision. It is just not going to come out that way and Mr. Lutz's firm does have historically great experience that goes back through the whole Pike Island years before any of us were on Council. The experience is there. It just isn't ever going to be a simple spreadsheet decision.

Shupp: He does a great job and so does his firm. There are two entities with the Dover and Oberlin data that we don't know and I mentioned it at the committee. We don't know what their income tax rate is and we don't know how much the utilities is paying of that salary compared to the City's share. In our situation the City is picking up 67% and the Utilities is picking up 33%. That could be greatly different in those other communities. The utility could be picking up quite a bit more in that instance. So that is one factor we don't know either. Don't hesitate to call that in to the Police Department and let them know. Somebody did that and they took care of it.

Chief Dino Carozza presented the Annual Report for the Police Department.

Good of the Order:

Vance: Last weekend, I believe, there was a group of individuals going door to door through town asking people to sign up for some kind of a utilities aggregation program or something. It was 9:00 on Saturday night and just so you know if you ever wonder about people coming up to your door you can simply ask "do you have a solicitor's permit?" This particular group "I don't think....maybe our manager..." that is the first sign that these people are not legit. So if you are ever wondering, just simply ask them for their solicitor's permit. Anybody that goes door to door that is the first thing they know they need to do is go down to City Hall and get that permit and that is a good way to tell if they are somewhat legit anyway. Apparently this group here wasn't. They weren't real fruitful here and found their way out of town fairly quickly. 9:00 on Saturday night is a pretty good indication too that

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these aren't legitimate folks either. I asked them personally and the folks I talked to had no idea if there was a solicitor's permit or where it was.

Leathers moved and Hamsher seconded that the council meeting be adjourned. Ayes all. Motion carried. Council was adjourned at 9:12p.m.

Tamra Peppard, Clerk of Council

Date

Lyle Baker, President of Council