

Regular/Public

February 20, 2007

Prior to council's regular meeting, public hearing was held regarding the Renewal Application for Placement of Farmland in an Agricultural District submitted by William E. Arnold. President Handwerk swore those in attendance who desire to speak regarding the subject of the public hearing.

The public hearing began at 7:30 p.m.

Handwerk: I think that the reason we called this public hearing is because we have granted these applications before and I think before we did this one there was some concern because we have had some complaints about this particular property. Mrs. Jewell, you have some pictures on the board there, did you want to start things off with any comments.

Jewell: I think maybe the law director...

Lutz: As council is aware, I submitted a memorandum explaining the procedure where we are at this point for the application for the application for Mr. Arnold's property to be included in the Agricultural District. There are grounds here for modification or denial. Additionally, I was looking at the application here and I don't think it was submitted with some other items of information that are supposedly required to qualify. One is that the property in the last three years has to produce at least \$2500 from agricultural production and also that agricultural production is taking place on the property that is used exclusively for agricultural production and that wasn't attached. That is another issue that is not in the memorandum. In this case, there are certain concerns with the property. One of them is the appearance of Mr. Arnold's property and basically maintaining a junk yard at his property which can be enforced through the Zoning Code, but it is also something to consider in determining whether you want to renew, reject, or modify the application that Mr. Arnold has submitted. One of those, as Mr. Preising will talk to, is that it could have a substantial, adverse effect on provisions of municipal services within the municipal corporation. At some point we are going to have to get an easement from Mr. Arnold for installation of a sewer and that could be for future development that is adjacent to Mr. Arnold and Tom Brenner's property. Additionally, it could affect the official use of land within the municipal corporation for the same reason. You could also imply the appearance of the property and essentially maintaining a junk yard at the property under the provision also. It also effects the orderly growth and development of the municipal corporation for the same reasons. Mr. Preising will talk more on that. Lastly, if it adversely effects the public's safety or welfare of the municipality. That would be the junk yard. The Zoning Code is enforced to preserve the public health, safety, and welfare of the community. He is probably in violation of that Zoning Code also. That is being investigated by Ron Cross and the Safety-Service Department, but it is also a reason to reject or modify the application. So there are several bases in my opinion that it could be denied or modified and as I suggested in my memorandum, this may be a circumstance where you would be able to modify the application. For example, instead of granting the automatic five year renewal, that it would be granted for one year with the understanding given to Mr. Arnold that in this year you have to show some substantial improvement, clean up of this property of the junk that is there before you would consider renewing it again next year. Additionally, one of the conditions could be that Mr. Arnold provides an easement to the Utilities Department for what they need to continue installing the sewer line in that area. Unless there are any other questions for me regarding the procedure or my recommendation, Dan can talk.

Preising: Just to refer to this drawing here (Exhibit A). We obtained an easement from Mr. Arnold which we bought in the past. Mr. Arnold is not aware that in the last year we have obtained easements from Mr. Brenner for the area running along Mr. Arnold's property and is actually on Mr. Brenner's property. There is a piece where our sewer line ends and where we need to attach it to these easements. There is a leading gap there on the south side of Back Massillon Road. We would have to go to the west to actually tie onto that and actually have to extend the easement in Mr. Arnold's property. It is not a large easement, but it is something we would be approaching Mr. Arnold with in the near future. We have a continuous easement to deal with to put in the sewer line. That could be part of the application or something if we do need that. Should this be granted and such without that modification, Mr. Arnold – should he decide to – could prevent us from actually obtaining the easement.

Handwerk: Any questions right now council?

Landaw: How many acres are we talking about?

Lutz: The application lists 37.07.

Landaw: So that would be the total property? The application would be for every bit of his property I am assuming?

Lutz: I can't answer that for sure. I am making an assumption that this is his entire property or what is in the city limits.

Landaw: That was going to be my next question, do we know if all his property is in the city limits? (Inaudible verbage on tape)

Handwerk: Any other questions right now? Mrs. Jewell do you have anything to add?

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Jewell: For the benefit of the record and for the benefit for the Clerk of Council we will mark the 11"x17" as Exhibit A and the copies of the photographs as Exhibit B. The purpose of providing this information... Exhibit A – the first page shows the entire tract of land that Mr. Landaw was asking the question about. Everything Mr. Arnold owns inside the city limits is contained within this area. The second page of Exhibit A is the information from the Utilities Department that shows the various easements that are across the Arnold and Brenner property and also the church property. The photographs you have (Exhibit B) were taken yesterday by Ron Cross. As I stated, just recently we had received a complaint about the condition of the property, but we have not gone out there being that it is winter time we have not been out to do an investigation at this time, but we did receive another complaint. The photographs that you have, like I said, were taken yesterday. Those reflect the condition of the property as it stands today. Exhibits C and D (posted on exhibit board) are aerial photographs and are several years old. They show the property also. We have not investigated the most recent Zoning complaint that we received due to the fact that we received it two weeks ago and the weather being like it is, we haven't been out.

Handwerk: The nature of the zoning complaints are what?

Jewell: The complaint was about all of the equipment that is stored outside. We had investigated several years ago, I believe it was in 2001, a junk yard complaint at that property. So we were going to reopen that and do another inspection.

Miller: Those photos are ten years old?

Jewell: There are several years old.

Miller: These photos (Exhibit B) are current?

Jewell: Those are current and taken yesterday.

Miller: It doesn't appear to me that there is a lot of change. If anything there is more stuff here.

Jewell: There isn't a lot of change.

Purdy: I have a question for Mr. Arnold, if he is willing to answer it. Why do you feel you need this agricultural designation?

Arnold: It is what farmers are entitled to. You sign up for it.

Handwerk: Are you farming all this property that is out here on the opposite of Back Massillon Road?

Arnold: I didn't get all the hay made there because it got laid on, but it is to be farmed yes.

Handwerk: I think the obvious major concern from everybody and not just council, but people we have talked to and had calls from, is all the equipment that is stored and left laying out there. As far as that goes, farther down the Back Massillon Road it is outside the district too and that would be my concern that that stuff all just gets moved from your place down further down the road and all we have done is make a bigger mess somewhere else. That is our concern. I think we are going to recommend that council doesn't make a decision tonight. We are going to have a workshop that we will set the date for with the Planning Committee (Mr. Purdy). Mr. Preising, Mrs. Jewell are you going to be talking with Mr. Arnold before that workshop date, during that time, or what? Or have you already basically talked?

Jewell: When the weather breaks we will be going out to do an investigation to the complaint we received. We probably won't do that until most of the snow is gone.

Preising: I would explain, in detail, what we need.

Purdy: If I understand this right, we have thirty days to make a decision as to what we want to do with this?

Lutz: That is correct. If you do nothing, it is going to be approved. You have to either reject or modify within those thirty days if you don't want it simply approved.

Purdy: Sound to me like what I am hearing tonight that there is definitely going to be a need for some modifications that we might want to consider. I encourage that we plan a committee meeting not too long into the future to sit down and discuss this. Maybe after Utility Board meeting.

Handwerk: I would make that just a workshop Mr. Purdy.

Purdy: Okay.

Miller: Mr. Lutz, is that thirty days from the hearing or from the application?

Lutz: From the hearing.

Handwerk: Mr. Arnold anything else to say tonight.

Arnold: When we did that before, are you going to leave me know when somebody is coming out?

Jewell: I am not sure what he is going to do.

Arnold: Before we took care of things at that time, right?

Jewell: At that time, I believe the agreement was the items that were there were used in agriculture and so those were the items that we allowed to stay on the property. However, I am not sure that any of them have been used. Many of them are still sitting in the same location that they have been since 2001 so I am not sure that those would not constitute a junk yard according to our ordinance at this time. That is what we will look at. We have the historical photos to look at and see whether or not it is actually used in agriculture or whether it is just sitting there.

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Landaw: I have a question for Mr. Arnold. Mr. Arnold, I was just wondering if we did reject this request and denied it, what would that mean, what kind of impact would that have on your farming operation out there?

Arnold: Well there is probably some things that I couldn't do that way. There are pamphlets over at the auditor's office that explains this thoroughly. I don't know everything about it.

Handwerk: Any other questions or comments right now?

Arnold: We have had this Ag District ever since we annexed out there. It has been continued for – I don't know if it has been 10 or 15 years. The sewer easements we did the same. We had the Ag District when we did that and I think Mr. Preising would tell you we had no problem with me on that, getting an easement.

Preising: He granted everything.

Arnold: Nothing has changed as far as if it is in the Ag District. I never slow down anything as far as cooperating. There were actually two easements. I didn't know anything about this easement.

Preising: No, it just happened recently.

Arnold: I have never not cooperated with an easement and we was in the Ag District then.

Lutz: Mr. Arnold, would you be willing to consider granting another easement to the Utilities Department in return if the council would consider renewing your application for example and modifying it to probably one year instead of five. Would you consider doing that? Without having the city pay you for it. In other words, the consideration would be the city would grant you the Agricultural District designation, for example one year instead of five. You would get it on the condition of granting the easement that Mr. Preising indicates he may need.

Arnold: We haven't talked about it. I don't even know how far up it is coming, how big it is, or anything. This is all new to me and the map doesn't show.

Lutz: Council needs to know whether you would be even willing to consider that for purposes of the workshop we are going to have. So you need to indicate whether that is not even going to be an option in your mind or whether you would consider giving an easement to the city.

(Pause while Mr. Preising shows Mr. Arnold the area of potential future easement on the map.)

Handwerk: Before we close the public hearing, I think my concern would be that we are not just talking about an easement for the Utilities as far as council is concerned. You are not out there by yourself like you were at one time. There are plenty of houses out there now; nice homes, a new church, another church possibly going out there, and quite frankly they don't want to look at a junk yard. That is going to be a major concern that we have as far as the potential of getting that cleaned up. I think that is where a lot of our thoughts are going to be coming from. The easement part of it you and the Utilities can work out and of course that is great if you do and we are hopeful that can be done. I think we are looking at more of a clean up aspect of it than anything.

Lutz: My recommendation to modify, if you are going to grant it, to modify it to one year as opposed to five is on the condition that in that one year period he better show that he has cleaned up the property or it won't be approved next time. It is a combination recommendation that one you grant the easement and also that we only grant it for one year and tell him in no uncertain terms it has to show or no approval the next year. Then the zoning enforcement, of course, is a separate issue that is enforced as a criminal action by the prosecutor's office. That would take place regardless.

Purdy: I would like to set up a time for a workshop on this matter for Monday, February 26th, at 7pm after the Utility Board Meeting. This is a workshop so I hope all of council will be able to make it.

Handwerk: Mr. Arnold we would certainly welcome you to come to that workshop. It would certainly help all of us if we were all in here together and we could actually ask questions back and forth and talk about things.

NOTE: Time was changed to 6pm at the close of the regular meeting due to conflict in schedules.

Handwerk: If there are no other questions, we will entertain a motion to close the public hearing Purdy motion and Baker second that the Public Hearing be closed. Roll call vote. Ayes all. Motion carried.

Public Hearing closed at 7:56 p.m.

President Handwerk called the meeting to order. Pastor John Beck offered the prayer. The Pledge was recited by all.

Roll call: Purdy, Miller, Landaw, Baker, Corfman, and Leathers were present. Weaver was excused.

Corfman moved and Baker seconded that the February 5, 2007 minutes be approved. Roll call vote. Ayes all. Motion carried.

Public Comment: None

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Standing Committee Reports:

- A. Finance – Mr. Miller had no report.
- B. Utilities – Mr. Landaw had no report.
- C. Health & Safety – Mr. Corfman had no report.
- D. Parks and Recreation – Mr. Purdy had no report.
- E. Transportation – Mr. Baker had no report, but commended city workers who cleaned our streets during the recent storm.

Handwerk: Mrs. Jewell it looks like a good time just to talk quickly about the streets. I know it was kind of like being a basketball official this week here – you are right some of the times and you are wrong some of the times. It has got to be hard for the street department or you; whoever makes the call, when to put the plows down. We did have streets that were getting pretty hard to drive on, but yet I think what a lot of people forget as soon as those plows go down that is when your driveways get plowed shut and then you have to dig them back out again. What is the criteria we go by as far as when to just salt and when to put the plows down and actually push the snow out of the way?

Jewell: They usually use that three inch guideline. When they start getting three inches of snow and a little bit more than that on the roadways then it is very difficult to navigate so that is what they watch for. In addition to that, they have priority one streets, priority two streets, and then priority three streets. Priority one are your main thoroughfares such as Main, Crown Hill, and Hostetler Road. Then they go to priority two streets and then the residential streets are done last. The crew that worked on the night of the storm, they started plowing late in the afternoon and they plowed until they had all the streets open that evening. The next day when they came in they started working on alleys and they starting working on pushing the streets back again. They did an excellent job. This past Sunday it had snowed on Saturday and then it snowed on Sunday. It started snowing harder in the late morning. Then we started getting a lot of calls regarding the fact that they hadn't started plowing again yet. However, they did plow everything back before 5:00. Again that was one of those judgment calls, was it going to be enough to plow or not. They started out salting and then they ended up plowing it back because it was enough that it needed to be plowed. It is just a judgment call when they were first called out they were salting and then they need to put the plows down. They did that before they went back in.

Handwerk: I agree with Mr. Baker. I think our fellows did a great job out there. It was an awful lot of snow to move and I feel bad for them because I know in a lot of instances someone just gets their drive done and then the plow comes by and plugs up the driveway and yet we are happy to get the streets plowed, but it is difficult to get your driveway open sometimes. It is kind of a no win situation. I think they did a good job.

Jewell: It was a lot of work to do. They worked long, hard hours and I think they did a tremendous job. I will convey your thoughts to them.

- F. Planning – Mr. Purdy had no report.
- G. Ordinance & Personnel – Ms. Leathers had no report.

Special Committee Reports: None.

Administrative Reports:

A. Mayor - Mayor Steiner reported that Wayne Economic Development Council's annual meeting is Thursday morning, March 22nd, at Shisler Center and Mike informed me our table has two seats available and wanted me to offer it to council if there are two people that care to attend with us. The meeting is from 7:30 – 9:00 a.m. It is a breakfast meeting. Let me know. First two will have a seat.

B. Safety Service Director- Director Jewell the only thing I wanted to further clarify in regards to the snow removal was to make it clear that the amount of overtime doesn't become an issue when we have a snow storm like we did. A lot of people called and said "well I understand you don't want to have a lot of overtime, but.." We had them out there as long as we possibly could and we were not holding back on the crew because of overtime, the only thing that was holding us back was the amount of time they could actually work physically before they needed to rest. This is the department that we cut five members from several years ago. At that time when they did that they said the hardest thing will be a big snow storm because they won't have enough to split the crew and that is

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where we were with this last snow storm last week. However, they worked very long hours, they went home and rested, they came back again. The only consideration was getting them rest it wasn't looking at the overtime budget.

C. Utilities Director – Director Preising reiterated what Mr. Locher had in the newspaper. We didn't achieve a record peak this year for our electric usage during the coal period, but we came fairly close. During that period we did generate a lot of power. We thought we had bought a lot of extra coal back in December to carry us through a few months and we ended up burning up most of that coal and we were getting very close to nip and tuck here with the coal companies not delivering because of the snow. They ended up showing up, but we were probably maybe a truckload away from having to cut things back a little bit and buy power. We wouldn't have cut anybody off or anything, but we would have had to cut the plant back and buy some of it. The truck showed up in time so we were able to keep things going.

D. Finance Director – Director Leggett had just one item. Before the meeting I distributed the Fund Balance Report for the period ending January 30, 2007 and would like have a motion from council to accept that report subject to audit. Miller moved and Purdy seconded that the January Fund Balance Report be approved, subject to audit. Roll call vote. Ayes all. Motion carried.

E. Law Director - Director Lutz had no report.

F. President of Council – President Handwerk had no report.

Old Business:

Ordinance B-07

Leathers moved and Purdy seconded that Ordinance B-07, an ordinance amending Section 1109.01, Section 1109.03, Section 1109.04, and Section 1109.06 of Chapter 1109, On-Premises Exterior Signs, of the Zoning Code of the City of Orrville, Ohio, be placed on third reading. Roll call vote. Ayes all. Motion carried.

Purdy: This was supposed to go three readings. We had a public hearing on this. The Planning Commission has had an opportunity to review it as well and encourages councils to pass it. Leathers moved and Purdy seconded that Ordinance B-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Ordinance C-07

Leathers moved and Purdy seconded that Ordinance C-07, an ordinance amending Section 1131.11 of Chapter 1131 of the Zoning Code of the City of Orrville, Ohio, regarding exclusions, be placed on third reading. Roll call vote. Ayes all. Motion carried.

Purdy: This goes along with the first ordinance of the evening where we had a public hearing on this and it was designed to go three readings. The Planning Commission has also had a chance to look at this and encourage council to pass it.

Leathers moved and Corfman second that Ordinance C-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Resolution 8-07

Leathers moved and Corfman seconded that Resolution 8-07, a resolution authorizing the Board of Control to enter into a contract and/or contracts not to exceed three (3) years, without bidding, for selected insurance needs for the City of Orrville, Ohio, be placed on second reading. Roll call vote. Ayes all. Motion carried.

Handwerk: We talked briefly about this at the last meeting. It is not something you are going to do without so I don't know that there is any reason to hold them up any from going out there a getting insurance.

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

Leathers moved and Weaver seconded that Resolution 8-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

New Business:

Resolution 10-07

Leathers moved and Corfman seconded that Resolution 10-07, a resolution authorizing the Director of Utilities to execute a PJM power pool agreement with American Municipal Power Ohio, Inc. (AMP-

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Ohio), and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Landaw: I refer to Director Preising's February 13th memo for this and the following resolutions. We have been operating under this informal agreement. There is a lot of benefits to us to be in this group with ten other communities for buying and selling electric and a lot of the other planning things that go on – forecasting and a lot of other stuff. I don't believe this has to be passed this evening.

Handwerk: Mr. Preising, anything you need to add to that.

Preising: No, not really. Working as a group is much better. It benefits some of the other municipalities as well as it benefits us. We have been working this to make sure it is a working thing for the last couple of years and this PJM is something new to all of us and we have been learning how it operates and that is the main reason it wasn't ever written down before and now that we pretty much got our handles on how it does operate and how we do function as a pool we want to reduce it to some kind of a contract so that it protects us and AMP-Ohio.

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

Leathers moved and Landaw seconded that Resolution 10-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Resolution 11-07

Leathers moved and Corfman seconded that Resolution 11-07, a resolution authorizing the Director of Utilities to sign a contract and/or contracts without bidding for engineering services for modification of the primary and secondary digesters at the Wastewater Plant and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Landaw: As stated this resolution is for the engineering of the project and the next resolution will be for the parts and installation. For this resolution for the engineering the estimated cost is \$114,200. These digesters at the wastewater plant take the waste product from – they move it to where it can be shipped away from our facility and spread on the fields. These digesters are very important to the process. I do recall there were several different options the Utilities was considering. One of the options would have been a little over \$3 million and that would have made the wastewater, waste product basically something that could have been put in a bucket and spread around your home it would have been so safe to handle. Obviously we don't need to have a product go out of here like that, so this project best suites the need for the whole community and the utility.

Weaver: Is there any problem with our waste being distributed, taken away, because Holmes County has a problem.

Preising: Holmes County is actually taking waste that hasn't gone through a treatment process whatsoever and it is coming from these pumping septic systems and possibly port-a-johns and it is just raw sewage they are spreading. Ours has gone through the process. Mr. Auten can elaborate on this as he is familiar with this. We are spreading sludge that has already been digested and it is not of the level of sewage they are putting out. Right now we are allowed to land apply it. In the future, I don't know. How long we will be able to do that, only know until the EPA decides we shouldn't be doing that. It is an approved process to do now. The quality of our sludge right now is becoming marginal because we are using 1950's technology to create this sludge and go through the digesting process. By making these modifications we are improving the system, we will improve the quality of the sludge we actually land apply. For some reason our sludge gets any worse, we will have too much materials in it, which is what Holmes County is having the problems with, then we would have to do something – landfill or something that gets very expensive.

Auten: Basically what Dan says is absolutely correct. If we landfill our cost will go up approximately \$90,000 per year. Even with land filling odors can sometimes be a concern so you still have to treat your sludge for the landfill to normally except it. We are using 1950's technology. It was upgraded in 1989, but it is still the 1950's way of doing things. We feel it is really in our best interest to be proactive and do the right thing now instead of having problems down the road.

Purdy: On these digesters, is this a new process or are we replacing worn out pieces of equipment.

Auten: We have two big structures that contain 264 gallons of sludge each. The one was constructed in 1951. The other one was constructed in 1967 and we are just replacing the equipment that is used in these structures. We are basically upgrading older structures with new equipment.

Preising: His equipment actually improves the process. You are adding new equipment that mixes it better and taking an internal heat exchanger and moving it to the outside so you get better heat exchange. You generate more methane which you burn to give you more heat and just overall improves the process. So you actually get better sludge digested.

Corfman: If I understood the Utility Board meeting last week, also with the external heat it is more serviceable than the other one.

Preising: Yes, very much so. The cleaning is a major thing too. Plus right now we only have heating on one of the digesters. This external heating exchanger will allow us to heat both of the digesters.

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Handwerk: Anything else? Again, as Mr. Landaw says this is for the engineering which is a pretty hefty price tag, but if you look at the information Mr. Preising sent to us and you looked at how much that project is involved with the engineering it is a long involved process.

Landaw: It would be fine with me if we are comfortable with this one and the next one to pass them tonight it will help them. There is a long lead time on order some of this stuff and obviously from some of the engineering to take place too. Probably every week at this point would be helpful.

Preising: The engineering has to be done first and then after the equipment is specified there is some long lead time equipment so we are trying to get this in before next winter.

Handwerk: Is this a budgeted item?

Preising: Yes.

Corfman: A workshop really wouldn't explain much more then we have heard tonight.

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

Leathers moved and Corfman seconded that Resolution 11-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Handwerk: I might just say before we go to the next one, Mr. Auten, I am glad that our Utilities and Mr. Preising that you are addressing those kind of problems looking into the future instead of waiting until we have a big problem and then coming and saying we have to redo this because we are really in a mess. I think this is the way to do that.

Preising: I would like to add one comment to Mr. Auten. He started this study in 2004 so this hasn't been just an overnight thing. It has been coming for three years.

Resolution 12-07

Leathers moved and Weaver seconded that Resolution 12-07, a resolution authorizing the Public Utilities Board of Control to accept bids and sign a contract and/or contracts for the installation of process improvements to the primary and secondary digesters at the Wastewater Plant, and declaring an emergency, be placed on first reading. Roll call vote. Ayes all. Motion carried.

Landaw: I will just clarify; the estimated cost again is \$470,800 for the parts and installation. That is the preliminary estimate.

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

Leathers moved and Corfman seconded that Resolution 12-07 be adopted as read. Roll call vote. Ayes all. Motion carried.

Police Chief Dino Carozza presented the 2006 Annual Report for the Police Department.

Good of the Order: None.

Miller moved and Baker seconded that the council meeting be adjourned. Ayes all. Motion carried. Council was adjourned at 9:51 p.m.

Tamra Peppard, Clerk of Council

Date

Dave Handwerk, President of Council