

City of Seven Hills

Record of Minutes of

COUNCIL MEETING HELD June 10, 2013

This Regular Council Meeting was called to order by Council President Michael C. Barth at 8:00 p.m. with the Pledge of Allegiance.

ROLL CALL

Present and accounted for were Mayor Dell'Aquila, Director of Law Pignatiello, Director of Finance Johnson, Councilman-at-Large Snitzky, Councilman-at-Large Trafis, Ward 1 Councilman Barth, Ward 2 Councilman Tripi, Ward 3 Councilwoman Lecznar, Director of Public Service and Properties Lovece, and Engineer Papke. Absentees were Councilman-at-Large Bentkowski, Ward 4 Councilman Draganic, and Building Commissioner Moro.

Council President Barth stated, for the record, that Councilman Draganic told him last week that he would be out-of-town this week and would not be able to be present for tonight's Council Meeting; Council President Barth said that Councilman Draganic was excused. Mr. Barth stated that Councilman Bentkowski just let him know today that he was also out of town, and that he would not be present this evening.

READING AND DISPOSAL OF JOURNAL

MOTION by Mrs. Lecznar, seconded by Mr. Tripi, to accept the Minutes of the Regular Council Meeting held May 28, 2013, as printed.
Roll Call: all yea **MOTION CARRIED**

CONSENT AGENDA

MOTION by Mr. Tripi, seconded by Mrs. Lecznar, to amend the Consent Agenda of June 10, 2013, if there is no division of the question, as follows:

- (1) **Add a new Motion No. 3** to read:
MOTION to authorize the emergency expenditure, in a total amount not to exceed \$16,000.00, to The K Company, for the purchase of a new compressor to replace the existing compressor (under warranty), to include parts, labor, filters, and belts, and refrigerant (if needed to be replenished), plus labor, at the Community Recreation Center. Payment to be made from funds at the discretion of the Director of Finance.
- (2) **Add a new Motion No. 4** to read:
MOTION to amend the Consent Agenda of April 22, 2013, Motion No. 4, to correct the funding source in Motion No. 4 to 435.530.53002 (from 101.731.58042), and to further amend the Consent Agenda of May 13, 2013, Motion No. 3, to correct the funding source in Motion No. 3 to 435.530.53002 (from 101.731.58042), both items referring to matters regarding Legal Services related to TRAX, payable to Squire Sanders (US) LLP.

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Mr. Tripi stated, in reference to new Motion No. 3 for the compressor, that a good portion of the \$16,000.00 is definitely a worst case scenario. Mr. Tripi said that about \$10,000.00 or \$11,000.00 of that would be required only if all the refrigerant was needed to be replaced; he said that they are guessing that it doesn't, that it should not be lost. Mr. Tripi said hopefully it will be next to nothing, but it should certainly be less than \$11,000.00.

Mr. Tripi stated, in reference to new Motion No. 4, that the amounts were not changed at all, just the funding sources.

Roll Call: all yea

MOTION CARRIED

MOTION by Mr. Tripi, seconded by Mrs. Lecznar, to accept the amended Consent Agenda of June 10, 2013, as supplemented, if there is no division of the question.

Roll Call: all yea

MOTION CARRIED

RESOLUTIONS OF COMMENDATION

Resolution No. 9-2013 – A RESOLUTION OF COMMENDATION TO ST. MARK COPTIC ORTHODOX CHURCH IN THE DEDICATION OF THE POPE SHENOUDA III MUSEUM AND THE HONORARY NAMING OF POPE SHENOUDA III STREET.

MOTION by Mr. Trafis, seconded by Mr. Snitzky, to read Resolution No. 9-2013 by title only for its final reading.

Roll Call: all yea

MOTION CARRIED

Resolution No. 9-2013 was read by the Clerk of Council by full title only for its final reading.

MOTION by Mr. Trafis, seconded by Mr. Snitzky, to adopt Resolution No. 9-2013 as an emergency measure.

Mr. Trafis stated:

“I just want to mention that the City has worked with St. Mark Coptic Orthodox Church for some time now to dedicate a portion of McCreary Road in honor of the late Pope Shenouda III. They do have an unveiling ceremony for the street signs and a new museum that is going to be on the church premises. This is a very great Resolution that Council is adopting for some wonderful City partners that we have in our community.”

Council President Barth stated:

“I'd just like to say that there is no one here tonight from St. Mark's to accept the Resolution of Commendation because it will be presented at their formal dedication ceremony to be held at the church. St. Mark Coptic Orthodox Church is a great asset to our community and we are proud to have them located here. This Council is delighted to be able to assist them and to formally approve the honorary naming of a portion of McCreary Road as Pope Shenouda III Street.”

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Roll Call: all yea

MOTION CARRIED

RESOLUTION NO. 9-2013 IS DECLARED ADOPTED

REPORTS OF COMMITTEES

Planning, Zoning, and Economic Development

Planning, Zoning, and Economic Development Chairman Trafis stated that the Committee will hold its next regular meeting on Monday evening, June 17, 2013. Mr. Trafis stated that the minutes from the previous meeting (May 20, 2013) are on file with the Clerk of Council.

Public Works

Public Works Committee Chairman Bentkowski was not present. Council President Barth stated that the Public Works Committee last met on Monday evening, June 3, 2013, and the minutes from that meeting are on file with the Clerk of Council.

Community Services

Community Services Chairman Snitzky stated that the Committee will hold its next regular meeting on Monday evening, July 1, 2013. Mr. Snitzky stated that the minutes from the previous meeting (June 3, 2013) will be filed with the Clerk of Council.

Police and Fire

Police and Fire Committee Chairman Draganic was not present. Council President Barth stated that the Police and Fire Committee will hold its next regular meeting on Monday evening, June 17, 2013.

Parks and Recreation

Parks and Recreation Committee Chairman Tripi stated that the Committee will also hold its next regular meeting on Monday evening, June 17, 2013.

Rules, Ordinances, and Ethics

Rules, Ordinances, and Ethics Committee Chairperson Lecznar stated that the Committee last met on Monday evening, June 3, 2013, and the minutes from that meeting are on file with the Clerk of Council.

Finance, Civil Service, and Personnel

Finance, Civil Service, and Personnel Chairman Barth stated that the Finance Committee last met on Monday evening, June 3, 2013, and the minutes from that meeting are on file with the Clerk of Council. Mr. Barth stated that the Finance Committee will hold its next regular meeting on Monday evening, June 17, 2013.

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APPOINTMENTS AND CONFIRMATIONS

There were no appointments or confirmations.

COMMUNICATIONS, PETITIONS, AND CLAIMS

There were no communications, petitions, or claims.

COUNCIL OPEN TO THE AUDIENCE ON LEGISLATION ONLY

There were no questions or comments from the audience.

ORDINANCES AND RESOLUTIONS

MOTION by Mrs. Lecznar, seconded by Mr. Barth, to further amend Amended Ordinance No. 54-2013 by replacing the Amended Ordinance in its entirety with the 31-page document distributed in Caucus this evening which includes all pertinent necessary exhibits to the subject legislation, and to waive the twenty-four hour delivery requirement for said ordinance replacement.

At this point in the meeting, Council President Barth called Todd Hunt, Esquire, who was seated in the audience, to the podium.

Council President Barth stated:

“Because these discussions were held in Executive Session, and we have to amend the Ordinance before we proceed, I’m going to deviate somewhat from the normal agenda, and I’ve asked Todd Hunt, from Walter Haverfield, who this Council retained to solicit proposals, evaluate them, and make a recommendation to Council, to approach the dais and explain how we got to this point, and why we have to pass this tonight on second reading.”

Todd Hunt, Attorney, Walter Haverfield LLP made the following comments:

“Todd Hunt, I’m an attorney with Walter Haverfield in Cleveland, 1301 East Ninth Street, Suite 3500, in Cleveland. Ordinance No. 54-2013 is a culmination of about ten months worth of work in terms of putting together a request for proposals that was advertised, and it went out to several interested parties or entities, to make a proposal to acquire or purchase the revenue streams, the rental revenue streams, from three leases that the City has of City property for cell towers and wireless telecommunication facilities. We received proposals. We then followed up; we meaning the Administration and myself. We followed up with those companies who made proposals, went back to Council, reported our findings, and went forward with looking at limiting the agreement for the revenue stream to either the terms of the lease or a maximum of thirty years.”

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Todd Hunt, Attorney, Walter Haverfield LLP (continued):

“There are approximately 24-plus years left on two of the leases, and 14-plus years left on one lease. The company that had the highest proposal, which was \$1.5 million for up to thirty years, would of course mean the terms of the current leases plus any successor leases at those sites, so they are taking a risk that there will be a successor lease after the 14 or 24 years. It’s important to get this deal done as soon as possible. The financing for the deal depends upon this agreement being authorized and being signed as soon as possible. It has dragged out for several months for several reasons. We thought we had proposals that turned out to be not as lucrative as we thought they would be, and we finally honed in on AP Wireless who met all of the qualifications that this Council discussed with us, meaning the Administration.

So it’s important to move forward this evening, not only because the City needs the revenue as soon as possible, the first payment will be made within five days of this agreement being executed, and the other payments will be made in installments over three years. The first payment is \$200,000.00. The other three installments over three years are over \$433,000.00 each year, and it’s important that this move forward this evening, and be authorized as an emergency so it goes into effect immediately and the Mayor can sign it. AP Wireless has confirmed. I was able to talk to the representatives from AP Wireless between 7:30 p.m. and 8:00 p.m. this evening, and they did confirm that any delay could jeopardize the funding of this deal.

If there are any questions, I’m available to answer those. I guess that’s about it.”

Council President Barth stated:

“Todd, thank you very much. I would just like to thank you personally for all your professionalism through this whole process and for all the work you did on behalf of the City. So, thank you.”

Roll Call: all yea

MOTION CARRIED

Amended Ordinance No. 54-2013 – AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT TO TRANSFER LEASE AND SUCCESSOR LEASE RENTS AND A MARKETING AND SERVICES AGREEMENT WITH AP WIRELESS INVESTMENTS I, LLC; AND DECLARING AN EMERGENCY.

MOTION by Mrs. Lecznar, seconded by Mr. Barth, to read Amended Ordinance No. 54-2013 by title only for its final reading.

Roll Call: all yea

MOTION CARRIED

Amended Ordinance No. 54-2013 was read by full title only for its final reading.

MOTION by Mrs. Lecznar, seconded by Mr. Barth, to pass Amended Ordinance No. 54-2013 as an emergency measure.

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Mr. Trafis stated:

“I just want to mention my displeasure with being prepared to have to vote on this in two weeks at the next Council Meeting and finding out shortly before this meeting that we’re voting on it tonight. But I do want to say that the Administration, the Law Department, and our outside counsel did a very, very good and diligent job in obtaining this deal for the City of Seven Hills, and it is important that this passes tonight. In future meetings I do anticipate and look forward to some discussions on what we are going to be doing with the money. I just wanted to put that on the record.”

Council President Barth stated:

“And I’m sure everybody on this dais looks forward to those discussions as well, Councilman.”

Councilman Trafis said “I agree.”

Mr. Snitzky stated:

“I’d just like to congratulate the Administration, Todd, and all the rest of the team on getting this passage of this ordinance. This type of income for a City our size is humongous. There’s a lot of good that can be done with this and they should be congratulated for it. I understand Mr. Trafis’ concern about things happening – sometimes you like to be able to chew on it – but unfortunately in the financial markets you can’t always do that. I feel very comfortable that we’ve dotted the I’s and crossed the T’s and feel that this is just going to be a real beneficial windfall for the City in the future.”

Mr. Tripi stated:

“I would just like to say congratulations also. It was a long, hard fought battle – well done. If you read the document, it does allow for additional income for us in the future if the people who take over the leases, or the assignment of it, if they can get other people to sign on and add to the towers, then we will participate in that additional flow, which I’m sure is part of their mission to make that happen. Very good.”

Council President Barth added:

“And I know that Mayor Dell’Aquila, who is the CEO of the City and says ‘yea’ or ‘nay’ to things, but the guy that started this whole process was Director Lovece. And I know he did an awful lot of work on it and he brought it to the Mayor, and the Mayor green-lighted it. So, Stewart, thank you as well, and thank you to Finance Director Johnson, who I know also did a lot of work over the last ten months.”

Roll Call: all yea

MOTION CARRIED

AMENDED ORDINANCE NO. 54-2013 IS DECLARED PASSED.

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Ordinance No. 57-2013 – AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF SEVEN HILLS, OHIO, WITH COURTVIEW JUSTICE SOLUTIONS OF NORTH CANTON, OHIO, FOR THE PURPOSE OF PERFORMING ANNUAL MAINTENANCE AND SUPPORT OF THE MAYOR’S COURT GBS SOFTWARE AND THE RIGHT-TO-USE LICENSE AND APPROPRIATING THE SUM NOT TO EXCEED ONE THOUSAND EIGHT HUNDRED NINETY DOLLARS (\$1,890.00) FOR SAID SERVICE.

Ordinance No. 57-2013 was read by full title only for its second reading.

Amended Ordinance No. 58-2013 – AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF SEVEN HILLS, OHIO, WITH LAKEFRONT LINES, INC./HOPKINS, OF CLEVELAND, OHIO, TO PROVIDE TRANSPORTATION FOR A BUS TRIP TO ERIE, PENNSYLVANIA (PRESQUE ISLE DOWNS & CASINO), ON JUNE 13, 2013, AUTHORIZING AN AMOUNT NOT TO EXCEED \$1,512.00 FOR SAID SERVICE; AND DECLARING AN EMERGENCY.

MOTION by Mr. Snitzky, seconded by Mr. Trafis, to read Amended Ordinance No. 58-2013 by title only for its final reading.

Roll Call: all yea

MOTION CARRIED

Amended Ordinance No. 58-2013 was read by full title only for its final reading.

MOTION by Mr. Snitzky, seconded by Mr. Trafis, to pass Amended Ordinance No. 58-2013 as an emergency measure.

Roll Call: all yea

MOTION CARRIED

AMENDED ORDINANCE NO. 58-2013 IS DECLARED PASSED.

Ordinance No. 59-2013 – AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF SEVEN HILLS, OHIO, A CERTAIN CHARTER AMENDMENT PURSUANT TO ARTICLE X OF THE CHARTER OF THE CITY OF SEVEN HILLS, OHIO, FOR THE PURPOSE OF AMENDING ARTICLE III, THE COUNCIL, SECTION 3, QUALIFICATIONS.

Ordinance No. 59-2013 was read by full title only for its second reading.

Ordinance No. 60-2013—AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF SEVEN HILLS, OHIO, A CERTAIN CHARTER AMENDMENT PURSUANT TO ARTICLE X OF THE CHARTER OF THE CITY OF SEVEN HILLS, OHIO, FOR THE PURPOSE OF AMENDING ARTICLE III, THE COUNCIL, SECTION 4, SALARIES AND BONDS.

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Ordinance No. 60-2013 was read by full title only for its second reading.

Ordinance No. 61-2013 – AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORS OF THE CITY OF SEVEN HILLS, OHIO, CERTAIN CHARTER AMENDMENTS PURSUANT TO ARTICLE X OF THE CHARTER OF THE CITY OF SEVEN HILLS, OHIO, FOR THE PURPOSE OF AMENDING ARTICLE V, ADMINISTRATIVE DEPARTMENTS, BOARDS AND COMMISSIONS, SECTION 9, RECREATION BOARD.

Ordinance No. 61-2013 was read by full title only for its second reading.

The Fiscal Officer's Certificate pertaining to Ordinance No. 62-2013 from Director of Finance Jack Johnson, dated June 10, 2013 was read by the Clerk of Council.

Ordinance No. 62-2013 – AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF \$750,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, TO PAY PART OF THE CITY'S PORTION OF THE COST OF IMPROVING BROADVIEW ROAD AND CIVIC DRIVE BETWEEN CERTAIN TERMINI, IN COOPERATION WITH THE CITY OF PARMA AND THE OHIO DEPARTMENT OF TRANSPORTATION AND OTHERWISE, BY PREPARING THE SURFACE, RESURFACING AND CONSTRUCTING AND RECONSTRUCTING CURB RAMPS, WHERE NECESSARY, CONSTRUCTING AND RECONSTRUCTING CONCRETE SIDEWALKS AND DRIVEWAY APPROACHES AND REPLACING CURBS, WHERE NECESSARY, AND GRADING AND OTHERWISE PREPARING THE SURFACE, INSTALLING DECORATIVE BRICK SIDEWALK PAVEMENT AND MATERIALS AND APPURTENANT SIDEWALK FURNISHINGS, CONSTRUCTING A RETAINING WALL OR WALLS, WHERE NECESSARY, AND PLANTING SHADE TREES AND PROVIDING RELATED LANDSCAPING, DRAINAGE IMPROVEMENTS AND LIGHTING, IN EACH CASE TOGETHER WITH THE NECESSARY APPURTENANCES AND WORK INCIDENTAL THERETO; AND DECLARING AN EMERGENCY.

MOTION by Mr. Trafis, seconded by Mr. Snitzky, to read Ordinance No. 62-2013 by title only for its final reading.

Roll Call: all yea

MOTION CARRIED

Ordinance No. 62-2013 was read by full title only for its final reading.

MOTION by Mr. Trafis, seconded by Mr. Snitzky, to pass Ordinance No. 62-2013 as an emergency measure.

Roll Call: all yea

MOTION CARRIED

ORDINANCE NO. 62-2013 IS DECLARED PASSED.

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Ordinance No. 63-2013 – AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF SEVEN HILLS, OHIO, WITH FIXLER ROOFING OF WADSWORTH, OHIO, TO REPAIR THE SALT SHED ROOF AT THE CITY OF SEVEN HILLS SERVICE GARAGE, AUTHORIZING AN AMOUNT NOT TO EXCEED \$8,500.00 FOR SAID PROJECT; AND DECLARING AN EMERGENCY.

MOTION by Mr. Tripi, seconded by Mr. Snitzky, to read Ordinance No. 63-2013 by title only for its final reading.

Roll Call: all yea

MOTION CARRIED

Ordinance No. 63-2013 was read by full title only for its final reading.

MOTION by Mr. Tripi, seconded by Mr. Snitzky, to pass Ordinance No. 63-2013 as an emergency measure.

Mr. Tripi stated:

“Just a note that the shed was damaged during Hurricane Sandy. We did get some insurance money back, and this is in addition to that as far as what we need to get the salt shed fixed. Nobody deserves it better to have a good roof over his head than our Service Director.”

Roll Call: all yea

MOTION CARRIED

ORDINANCE NO. 63-2013 IS DECLARED PASSED.

Ordinance No. 64-2013 – AN ORDINANCE AUTHORIZING THE PURCHASE OF ROAD SALT THROUGH THE JOINT MUNICIPAL IMPROVEMENT CONSORTIUM AND AUTHORIZING AN AMOUNT NOT TO EXCEED \$300,000.00 FOR THE PERIOD OF NOVEMBER 1, 2013 THROUGH OCTOBER 31, 2014.

Ordinance No. 64-2013 was read by full title only for its first reading.

Resolution No. 8-2013 – A RESOLUTION APPROVING THE PROPOSED TAX BUDGET FOR THE CITY OF SEVEN HILLS, OHIO, FOR THE FISCAL YEAR 2014.

Resolution No. 8-2013 was read by full title only for its second reading.

Resolution No. 10-2013 – A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A STORMWATER MANAGEMENT PROGRAM SERVICE AGREEMENT WITH THE NORTHEAST OHIO REGIONAL SEWER DISTRICT FOR IMPLEMENTATION OF THE REGIONAL STORMWATER MANAGEMENT PROGRAM.

Resolution No. 10-2013 was read by full title only for its first reading.

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COUNCIL OPEN TO THE AUDIENCE

There were no questions or comments from the audience.

MISCELLANEOUS

Mr. Trafis had no miscellaneous comments.

Mr. Snitzky had no miscellaneous comments.

Mrs. Lecznar:

I just want to wish all the fathers out there an early Happy Father's Day!

Mr. Tripi had no miscellaneous comments.

Council President Barth:

I would just like to congratulate the City and the Baseball Federation on what I heard was a very successful Opening Day. I was sorry that I missed it because I had a previous commitment, but I would like to thank the Federation for all they do and wish them another successful season.

REPORTS FROM THE DIRECTORS OF DEPARTMENTS AND OTHER OFFICIALS

Director of Finance Johnson had no formal report.

Director of Law Pignatiello had no formal report.

Director of Public Service and Properties Lovece:

Tonight is history – or should I say a cash infusion – with the passage of Amended Ordinance No. 54-2013, entering into an agreement with AP Wireless Investments, where the City will be paid a total of \$1.5 million, the first \$200,000.00 within five days of the effective date of the Ordinance and the remainder over three equal payments ending in mid-2016. This project began with a phone call from a prospective investor in early 2012 to myself and it became a pet project.

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Director of Public Service and Properties Lovece (continued):

This project blossomed into what we have passed tonight, which involved teamwork from the Mayor's Office, Council, the Finance Department, the Law Department, special Legal Counsel Todd Hunt of Walter Haverfield LLP, and others. I'm proud to be a part of the process.

Council President Barth added, "You started the project – Good job!"

City Engineer Papke:

Just a quick note that the Parma City School District was recently awarded a study grant for the Safe Routes to School program of which I'm a member of that Committee. We're looking forward to potential improvements over by Hillside Middle School for all of our kids that travel via bike and walking in that area. We'll probably be having some open meetings coming up, and I look forward to working with the Parma City School District on those items.

Building Commissioner Moro was not present.

REPORTS AND COMMUNICATIONS FROM THE MAYOR-SAFETY DIRECTOR

Mayor Dell'Aquila:

I first want to express my thanks and also my congratulations to everyone who was involved in the assembly and passage of Amended Ordinance No. 54-2013. As I've said in the past, we are not a business, but neither are we a bank or a financial institution. What we have realized this evening is the highest price on the best terms that the market will currently bear for the revenue stream represented by our cell phone towers. I think someone up here – I think it was you, Mr. President -- drew the analogy that the Mayor is essentially the CEO of the business, and although I do take your point that is partially the case, I also, after sixteen or so months into my first term, have come to realize that this position is somewhat also analogous to a sports manager or a coach of a team. And I'm not comparing myself to these gentlemen, but in the same way that Paul Brown or Phil Jackson or Joe Torre were at least in part responsible for the success of the Browns, or the Lakers, or the Yankees, that responsibility and that success with regard to the passage of Amended Ordinance No. 54-2013 should go to everyone involved. And though I do thank you for your kind words with regard to the involvement that I've had in the process, there is plenty of teamwork here and plenty of congratulations to go around. So I do see myself as partially a CEO but partially also the manager of a very effective and successful team here. This \$1.5 million will give our City the flexibility to do many more things for our residents than we could have otherwise done, and also address some of our infrastructure needs. Again, congratulations and thank you everybody.

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Council President Barth added, “Just remember, it’s the manager that calls the steal!”

Mayor Dell’Aquila replied, “I understand that.”

Council President Barth said, “And the coach that calls Red Right 88!”

Mayor Dell’Aquila again replied, “I understand that – yes, I understand that. I hope we’re not going to call too many Red Right 88’s!”

MOTION by Mrs. Lecznar, seconded by Mr. Tripi, to adjourn the meeting.

Roll Call: all yea

MOTION CARRIED

The June 10, 2013 Council Meeting was adjourned at 8:40 p.m.

Michael C. Barth, President of Council

Attest: _____

Carol L. Sekerak, Clerk of Council

Date: _____