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# Memorandum

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**To:** Mayor & Members of Council  
**From:** Jon Bisher  
**Subject:** General Information  
**Date:** September 21, 2012

## MEETING CALENDAR

### MONDAY, SEPTEMBER 24, 2012

1. *Finance & Budget Committee* Meeting at 6:30 pm
  - a. *Approval of Minutes* – the August 27<sup>th</sup> meeting minutes are attached.
  - b. *Amusement License Fees on Gaming* – documents enclosed for this item:
    - i. a Memorandum from Trevor and Chief Weitzel;
    - ii. an article from Greg Heath;
    - iii. Draft “Sweepstakes and Internet Cafes” Ordinance.
2. *Safety and Human Resources Committee* - **MEETING CANCELED**

### TUESDAY, SEPTEMBER 25, 2012

1. *Civil Service Commission* at 4:30 pm
2. *Special COUNCIL* Meeting in conjunction with the *Henry County Republican Central Committee*, 7:00 pm at the Henry County Hospital Heller Room

### WEDNESDAY, SEPTEMBER 26, 2012

1. **SPECIAL JOINT MEETING** of *Parks & Recreation Committee and the Parks & Recreation Board* – at 6:30 pm
2. *Parks & Recreation Board Meeting* at 6:30 pm

### INFORMATIONAL ITEMS

1. **AMP UPDATE**/September 14, 2012

August 2012							September 2012							October 2012						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4						1		1	2	3	4	5	6	
5	6	7	8	9	10	11	2	3	4	5	6	7	8	7	8	9	10	11	12	13
12	13	14	15	16	17	18	9	10	11	12	13	14	15	14	15	16	17	18	19	20
19	20	21	22	23	24	25	16	17	18	19	20	21	22	21	22	23	24	25	26	27
26	27	28	29	30	31		23	24	25	26	27	28	29	28	29	30	31			
							30													

Calendar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>1</b> VACATION - Bisher
<b>2</b> VACATION - Bisher	<b>3</b> HOLIDAY - LABOR DAY	<b>4</b> 7:00 PM City COUNCIL Meeting	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
<b>9</b>	<b>10</b> 11:30 AM -1:30 pm Employee Appreciation Picnic 6:30 PM Electric Committee BOPA Meeting 7:00 PM Water/Sewer Committee Meeting	<b>11</b> 4:30 PM Board of Zoning Appeals Mtg.	<b>12</b>	<b>13</b>	<b>14</b> 8:30 AM Health Care Cost Committee Mtg.	<b>15</b>
<b>16</b>	<b>17</b> 6:00 PM City TREE Commission Meeting 7:00 PM City COUNCIL Meeting	<b>18</b>	<b>19</b> AMP - Bisher	<b>20</b> AMP - Bisher	<b>21</b> 11:00 AM Napoleon Solar Facility Ribbon Cutting 1722 Oakwood Avenue	<b>22</b>
<b>23</b>	<b>24</b> 6:30 PM Finance & Budget Committee Meeting Smartboard Operator - Sheryl	<b>25</b> 4:30 PM Civil Service Commission Meeting 7:00 PM Special COUNCIL Meeting in Conjunction with the Henry County Republican Central Comm. @ Henry County Hospital Heller Room	<b>26</b> 6:30 PM Joint Meeting Parks & Rec Board & Committee BISHER - VACATION	<b>27</b> BISHER - VACATION	<b>28</b> BISHER - VACATION	<b>29</b> BISHER - VACATION
<b>30</b> BISHER - VACATION	<b>1</b> 7:00 PM City COUNCIL Meeting 8:00 PM Technology & Communication Committee Smartboard Operator - Dan Seasonal Cleanup - Fall	<b>2</b> Seasonal Cleanup - Fall	<b>3</b> Seasonal Cleanup - Fall BISHER - Vacation	<b>4</b> Seasonal Cleanup - Fall BISHER - Vacation	<b>5</b> Seasonal Cleanup - Fall BISHER - Vacation	<b>6</b> BISHER - Vacation

City of Napoleon, Ohio

## **FINANCE & BUDGET COMMITTEE**

LOCATION: City Offices, 255 W. Riverview Avenue, Napoleon, Ohio 43545

### **Meeting Agenda**

Monday, September 24, 2012 at 6:30 PM

- I. **Approval of Minutes** *(In the absence of any objections or corrections, the minutes shall stand approved.)*
- II. **Amusement License Fees on Gaming**
- III. **Any Other Matters Currently Assigned To Committee**

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Gregory J. Heath, Finance Director/Clerk

**City of Napoleon, Ohio**  
**FINANCE AND BUDGET COMMITTEE**

**Meeting Minutes**

Monday, August 27, 2012 at 6:30 PM

<p><b>PRESENT</b>  <b>Committee</b>   <b>City Staff</b>   <b>Others</b>  <b>Recorder</b></p>	<p>Glenn Miller – Chair (arrived 6:34 PM), John Helberg, Christopher Ridley, Mayor  Ronald Behm, Patrick McColley - ProTem  Dr. Jon A. Bisher, City Manager  Gregory J. Heath, Finance Director/Clerk of Council  News Media, Patrick McColley  Barbara Nelson</p>
<p><b>ABSENT</b></p>	
<p><b>Call To Order</b></p>	<p>Acting Chairman Helberg called the meeting to order at 6:30 PM</p>
<p><b>Minutes Stand Approved</b></p>	<p>Minutes from the July 23, 2012, meeting stand approved as presented.</p>
<p><b>Motion To Untable</b>  <b><i>Review of Investments</i></b></p>	<p>Motion: Mayor Behm                                      Second: Ridley  To remove <i>Review of Investments</i> from the table</p>
<p><b>Passed</b>  <b>Yea-4</b>  <b>Nay-0</b></p>	<p>Roll call vote on above motion:  Yea- Behm, McColley, Helberg, Ridley  Nay-</p>
	<p>(Miller arrived.) Heath said he included the same memo in the Council packet as last month. Ridley could not be at the last meeting and asked that this agenda item be tabled for specific questions to be answered. Bisher explained that the 60+ City funds work like checkbooks that must keep balances at the end. We monitor these accounts carefully and make cuts as needed to maintain balances. Heath said the City has a fund balance policy for the water/sewer funds. There is an informal understanding with the electric fund balance due to the self-insurance issue. There is a basic prior understanding with Council that we will maintain a \$1,000,000 balance in the general fund.</p>
	<p>Ridley asked about outstanding encumbrances. Heath said the State says we start out with balances, add in revenues, and those two together give you the maximum total appropriation capability. Once the appropriations are passed, we encumber them and issue purchase orders. We do encumbrances annually at the beginning of the year. We are then “in the process of collection” (per the ORC) of revenues throughout the year. Some are blanket encumbrances that don’t get totally used. We count on that. As an example, there were three full-time positions in the 2012 budget. We took these positions out and the unused appropriations will revert to that fund at the end of the year.</p>
	<p>Heath said the average return on our investments is currently about .72%. This computes to less than \$200,000 per year. When there are realistic interest rates, we can get over \$1,000,000. We will get about \$300,000 this year; about \$150,000 of it will go to the general fund and the balance goes to restricted funds. Mayor Behm asked why half of the interest goes to the general fund. Heath said Council set the process up by ordinance in 1997. It is a reasonable way of allocating reserves and using current reserves to allocate against the interest we receive. We pool the money</p>





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## Napoleon City Police Department

# Memorandum

**To:** City Council  
**From:** Law Director Trevor Hayberger and Chief Robert Weitzel  
**CC:** file  
**Date:** 09/18/2012  
**Re:** Sweepstakes and Internet Cafes – Licensing and Regulation

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With the recent decision at the state government level dealing with allowing sweepstakes gaming, many communities have adjusted their codes to deal with the licensing and regulation of the activity. All of the state rules are not in place yet, but basically these businesses fall into a loophole in the gambling laws. They operate much like a casino in as much as the games “simulate” slot machines and cash prizes are paid out. These businesses, therefore have no real history in city codes and things such as zoning and entertainment licensing are inadequate in handling them. As with a casino, there is a potential for increased necessity for police interaction to deal with criminal, and nuisance activity surrounding the business, along with the potential for illegal gambling to take place.

In examining the potential for these problems to arise and also the issues of zoning and regulation similar to the current Napoleon City Ordinances dealing with Amusement Licensing and Regulation (Chapter 711 Nap City Ord.), we have decided we need to take similar action. We suggest that we review other Ohio cities and model a chapter dealing with this new type of Amusement and create a licensing and monitoring of the businesses. In the event we run into malevolent intent or nuisance issues, we will have sufficient tools to deal with them. A separate fee scale is also common with the regulations in other cities that more reflect the increased burden of monitoring and enforcement.

We have several examples of chapters on hand for your review, or you may wish to start from scratch and have your own chapter written. It is important to know that the state has had in place a moratorium on new Sweepstakes Cafés and Internet Cafés that will soon be lifted. All those currently operating were required to register with the state. A long delay in enacting a chapter dealing with these businesses might cause us to lose the advantage in licensing and monitoring them.

We are suggesting that these businesses be named in the zoning code to properly place them in the city and we have a licensing and fee schedule in place, and also have the ability to fine or suspend the license of a business that does not operate in accordance with the chapter we establish.

Fees run from \$1000.00 to \$5000.00 per license for a premise and a per device fee of from \$15.00 to \$100.00. We are suggesting the middle road of \$2500.00 for the license and \$40.00 per device on a yearly basis.

# Gambling Raids Hit Cafes

## Police Target Burgeoning Internet Sweepstakes Venues, Claiming They Are Illegal

By Susan Egan

CLEVELAND—Cora Sayer spends her weekends at the club by Internet cafes that offer customers strip video feeds.

The cafes offer Internet access, which Ms. Sayer, 37, says, "allows patrons to use to check their e-mail or pay bills. But customers use Ms. Sayer, 37, says, "aren't there to use word like Web. They play simulated slot-machine games in hopes of winning thousands of dollars in prizes, in settings that resemble miniature Las Vegas casino floors."

"I was \$100 on a slot machine," Ms. Sayer said, while critics insist it is just a game. In the new Web City cafe in Cleveland, Ohio, "I'm a gambler at heart, so I think this is a great venue."

Such Internet sweepstakes cafes have proliferated across the country, thanks to easy access like the Web. In recent months, though, the cafes have come under fire from state and local authorities in a number of states, including Ohio, South Carolina, Michigan, Texas and North Carolina. Reports of raids have been published and spread about gambling parlors. Some state law makers are trying to ban such cafes to impose hefty fines.

In their defense, the cafes claim they are protected by laws guaranteeing protection and recognition that allow, for example, McDonald's to give prizes to customers. "The business model meets the letter of the law," said Chasie Brooks, who along with partners runs about 25 cafes in Texas, North Carolina, Ohio and Florida.

Randy Hamed, whose family owns Web City in Ohio, said it is a good business that gives "customers a chance to pay their bills."

In many Internet cafes, customers get "sweepstakes" entries as a promotion for each dollar they spend on Web time. The sweepstakes typically include points that are often placed on plastic coffee mugs. The customers can then play the simulated slot machine games to find out if



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Number of Internet sweepstakes cafes that registered with the state of Ohio this year

2

Number of legal casinos approved and currently in operation in Ohio

that have such prizes. That operator typically offers "no purchase necessary" entries and usually pays the odds of winning.

Critics say the cafes are using the sweepstakes to get around longstanding laws and regulations. They say most of the customers don't even use the Internet time, and much like in a casino, patrons are isolated in special areas, usually to get more chances to win prizes.

Mark Bell, the chief of the South Carolina Law Enforcement Division, which has received local police in raids in about a dozen

venues that received in the amount of about \$200,000 in prizes, says the cafes are "like slot machines." The cafes have easy access to any computer, making legal gambling operations, which are heavily regulated, he said.

The cafes are especially hot in Ohio, where people will even have the choice of going to that large casino, approved by voters, or several Internet cafes, some of which offer even virtual blackjack games.

Steve Simmons, 30, police chief of the city of Cleveland, Ohio, says he has seen Internet sweepstakes cafes in several Ohio cities. Mr. Simmons, who is on Social Security, phoned Brown about \$100 a day at the cafe, plus the games and social time with other customers. "It has become my hobby," he said, adding the cafes have a neighborhood feel about it.

Randy Hamed, a lawyer for Cyber Cafe and other cafes, said the cafes aren't necessarily opposed to being regulated. They just want sweepstakes to "sell as what the state is," he said.

With cafes growing rapidly across Ohio, however, the governor is now faced with a one-year moratorium on slot games and regulated online games to continue with the attorney general of the State Lottery Commission for more than \$100 million in all

Ohio's Lottery Commission. "It is like the wild, wild West," he said. It's a "Western" not to call it gambling.

It is difficult to estimate how large the industry has become. Gambling experts say online fees reported on several years ago, but their growth has accelerated in the past year. In North Carolina, researchers estimate the industry's total annual revenue this year is between \$400 million and \$1 billion before taxes.

While fees differ from state to state, gambling is generally illegal unless specifically allowed in casinos or racinos. There were 22 states with commercial casinos in 2000, according to the American Gaming Association.

Critics have offered mixed opinions on the cafes, said Joseph Kelly, a business-law professor at SUNY College at Buffalo, adding there are four crucial questions to resolve pending in courts: Is it a game? Is it a lottery? Is it a casino? Is it a racino?

In North Carolina, a state supreme court case this year decided that a statewide ban on sweepstakes cafes violated the state's speech rights, a ruling now being appealed. In the past month, the U.S. Court of Appeals for the Fifth Circuit upheld the convictions of two sweepstakes cafe promoters in Texas.

In Cleveland, Cuyahoga County Prosecutor Bill Mason Jr. has filed a 70-count criminal indictment against 30 people and seven businesses that produce and market the machinery used in some cafes, according to a report making about \$10 million in illegal gambling profits since February 2000. All 37 parties pleaded not guilty. "I'm not even sure of the gambling racket," said Mr. Mason. "It is just that this is illegal activity."

### Sweeping Up



Send the code to: [www.irs.gov](http://www.irs.gov) to receive a code to: [www.irs.gov](http://www.irs.gov) or call 1-800-829-1040

CITY OF NAPOLEON, OHIO ORDINANCE NUMBER 0xx-12

**ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON AND ESTABLISHING CHAPTER 713 "SWEEPSTAKES AND INTERNET CAFES"**

WHEREAS, the City of Napoleon may license and regulate the location and operation of certain businesses that are of such a nature that they possess unique characteristics in operation that they could potentially have negative secondary effects on neighboring properties; and

WHEREAS, Council has determined that it is in the best interests of the City of Napoleon and its residents to establish licensing and regulating requirements for such businesses that operate sweepstakes and/or internet cafe operations wherein the public is invited to the establishment for the purpose of purchasing telephone cards or some other item of value for an opportunity to be entered into a sweepstakes.

NOW, THEREFORE, the City of Napoleon hereby establishes and ordains the following:

Section 1. "Chapter 713: Sweepstakes and/or Internet Cafes

**713.01 PURPOSES AND APPLICABILITY.**

A. Applicability. This chapter shall apply to the operation of computerized sweepstakes terminals and internet cafes or establishments operating such terminals. This Chapter shall only apply to the operation of such terminals that are lawfully operating pursuant to the Ohio Revised Code and nothing in this Chapter shall be construed to legalize, license or authorize any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code. This Chapter shall apply immediately to all devices, arcades and/or internet cafes that commence operation after the date of enactment of this chapter. All arcades, internet cafes, or establishments in existence at the time of enactment of this Chapter shall come into compliance with all Sections of this Chapter no later than thirty (30) days after enactment unless otherwise noted herein.

B. Purpose. It is the purpose of this Chapter and the policy of the City of Napoleon to establish standards for licensing and regulation of computerized sweepstakes devices and arcades and/or internet cafes upon which they are located and operate. This Chapter is designed to prevent safety and fire hazards, prevent disturbances, preserve the peaceful enjoyment of neighboring establishments and residences, and prevent gambling and other criminal behavior in the City.

**713.02 Definitions:**

COMPUTERIZED SWEEPSTAKES DEVICE: See Sweepstakes Terminal Device.

ENTER or ENTRY: The act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

LICENSEE: The person or persons who sign an application for a license related to sweepstakes terminal devices or sweepstakes/internet cafes and to whom such license is issued; a person who is the holder of a valid license under this chapter, a licensee includes an agent, servant, employee or other person while acting on behalf of that licensee whenever such licensees are or would be prohibited from doing or performing an act or acts under this chapter.

OPERATOR: Any person or persons having authority to control the premises of an sweepstakes arcade and/or sweepstakes internet café.

OWNER: Any person who possesses a pecuniary interest, either directly or indirectly, of twenty-five percent (25%) or more in a sweepstakes/internet cafe.

PERSON: Any natural person, firm, partnership, association, corporation or any other form of business organization.

PREMISES: The building or structure, or any portions thereof or locations therein used for conducting one or more components of the operations of a sweepstakes/internet cafe or where any function related thereto is located.

PRIZE: Any gift, award, gratuity, good, service, credit, reward, or any other thing of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent



to transfer the prize.

**SCHOOL:** Any educational institution, public, private, secular or parochial, which offers instruction of high school grade or lower.

**SWEEPSTAKES:** Any game, contest, advertising scheme or plan, or other promotion, but does not include bingo, whether or not consideration is required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance.

**SWEEPSTAKES TERMINAL DEVICE.** Any computer, machine, or apparatus which is capable of connection to the internet, regardless of whether such connection is utilized, through a wireless router, telephone line, digital subscriber line, satellite, cellular telephone, cable connection or any method, which is engaged or accessed upon the insertion of a coin, token, or similar object, or the sliding of a magnetic card or entry of a code, or similar process, or upon payment of anything of-value, either directly or indirectly, and which may be operated by the public generally for use as entertainment, amusement or a contest of skill, whether or not registering a score, and which when so utilized produces, announces, reveals or discloses the eligibility, award or payment of a cash prize redeemable on or at the Internet Sweepstakes Cafe, whether or not said prize was in fact announced, revealed or disclosed through the usage of the Computerized Sweepstakes Device. Computerized Sweepstakes Device does not include machines designated for use by the State Lottery Commission.

**SWEEPSTAKES/INTERNET CAFE.** Any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever.”

### **713.03 LICENSE APPLICATION AND REQUIREMENTS.**

(a) No person, partnership, corporation, or other entity shall operate or conduct a sweepstakes/internet cafe without first obtaining a license from the city. Every person, partnership, corporation, organization or other entity shall make an application in writing to the City, which application shall set forth:

- (1) The name under which the business is to be conducted;
- (2) The location where the business is conducted, with a description of the premises, including a scaled diagram;
- (3) The name, address, and date of birth of any manager, supervisor, and all other employees;
- (4) The name, address, and date of birth of the owner or owners of the sweepstake devices;
- (5) The name, address, date of birth, and principal occupation of every person with an interest in the business. If the business is conducted by:

- a. A sole proprietorship: the name, home address, date of birth and principal occupation of that individual
- b. A firm or partnership: the names, home addresses, dates of birth, and principal occupations of each member of the firm or partnership.
- c. A corporation: the names, home addresses, dates of birth and principal occupations of all directors, officers and shareholders owning more than twenty-five percent (25%) of the outstanding shares.

- (6) The name, address, date of birth and principal occupation of the statutory agent for the firm, partnership, or corporation.
- (7) The name, description, model number and serial number of each computerized sweepstakes device on the premises and any other device on the premises that is necessary to the operation of the computerized sweepstakes device.
- (8) A list of each separate prize that may be given out and each separate dollar amount that may be given; and the odds of winning any offered prize or dollar amount awarded for the participation in any game, activity, program, scheme or play, use or participation in any way in a computerized sweepstakes device or participation in any other activity or promotion in the sweepstakes/internet cafe, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.
- (9) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the computerized sweepstakes devices or to devices necessary to operate the entertainment devices, whether any such provisions are sold, leased or licensed.

(10) The application is to include supporting documentation from a Certified Independent Regulatory Compliance Testing Laboratory that the software performs in similar fashion as other permitted sweepstakes commercially offered to the public and that the entries are drawn from a pre-created finite static pool of entries with assigned values. To be certified, the Independent Regulatory Compliance Testing Laboratory must be authorized to test regulated gaming equipment by at least one state government gaming regulatory agency.

(b) The person, partnership, corporation, or other entity operating or conducting the business shall have a continuing duty to inform the City as to changes in the information required in this section. No person, partnership, corporation, or other entity shall operate or conduct a sweepstakes/internet cafe at any time unless the information of file with the City is current and accurately reports the licensing information at the time of operation.

(c) If an application is not approved, the City shall notify the applicant in writing, with reasons for rejection.

(d) The City shall not issue a license to any person, partnership, corporation, or other entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal or state statute or of any

local ordinance pertaining to gambling or other crime of moral turpitude within five years preceding the application. All owners, employees and persons having an interest in the business, as set forth in Section 713.03(A)(5), shall consent to a criminal history check by the Napoleon Police Division.

(e) As a prerequisite to the issuance of such license, an inspection shall be made of the premises by the Fire Department and the premises must be in compliance with all applicable fire regulations. The sweepstakes/internet cafe shall be open to inspection and viewing of operations by law enforcement officers and fire department personnel at all times of operation. No operator shall fail to immediately permit entry to any such City officials.

(f) Failure to register or pay a license fee for a computerized sweepstakes device shall be grounds for suspension or revocation of the license for the establishment and said device shall be seized and forfeited to the City.

#### **713.04 LICENSE FEE; TRANSFER AND DISPLAY**

(a) The license fee, payable to the City at the time of application and annually thereafter, shall be Two Thousand Five Hundred Dollars (\$2,500.00) for each business location per year or any part thereof ending on December 31 of each year. In the event that an application is denied under this Chapter, one-half (1/2) of the application fee shall be returned to the applicant. In the event that a license is revoked or suspended hereunder, no portion of the license fee shall be returned.

(b) The fee for each computerized sweepstakes device shall be Forty Dollars (\$40.00) for each device on the premises for each year or any part thereof ending on the last day of the year.

(c) The fees, which are paid at the time of application, are not refundable in any case. The license fee shall be paid for each device brought to the facility before the device is put into use. For purposes of determining licensing fees, each device that is operable by one or more persons is a separate device.

(d) Licenses issued under this article shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each device with serial number.

(e) Failure to register any computerized sweepstakes device before placement on the premises is an unclassified misdemeanor and the operators shall each be liable for a mandatory fine of One Hundred Fifty Dollars (\$150.00) for each day the device is not registered, and said fine shall not be reduced or suspended, and may result in forfeiture of license to operate a sweepstakes/internet cafe.

#### **713.05 REVOCATION; HEARING PROCEDURE.**

(a) The license may be suspended or revoked at any time by the City on satisfactory proof that violation of federal laws, the laws of the State, ordinances of the City, or of this Chapter occur on the premises. In addition to any license suspension, the City may assess the licensee a penalty fee of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars (\$1,000.00) for any violation of this article. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this article or other municipal, state or federal laws.

(b) The City Manager or his designee may regularly inspect the premises, the operation, the computerized sweepstakes devices and the licensee's records and may issue a complaint to the licensee for any violations.

#### **713.06 HOURS OF OPERATION.**

No operator of a sweepstakes/internet cafe shall permit the same to be or remain open between the hours of 10:00 p.m. and 10:00 a.m. of the next day. No operator shall permit any person to operate any computerized sweepstakes device between the hours of 10:00 p.m. and 10:00 a.m. of the next day.

#### **713.07 PROHIBITED CONDUCT.**

(a) No licensee of a sweepstakes/internet cafe by himself/herself, directly or indirectly, or by any servant, agent or employee, shall permit or fail to take active steps to eliminate or prevent the activities specified in this section from occurring on the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions or inactions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

(1) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises;

(2) Permit gambling as defined in the Ohio Revised Code in any form or the possession or use of gambling paraphernalia upon the premises;

(3) Permit the possession or use of any unlawful drug, narcotic or controlled substance;

(4) Permit the public streets, sidewalks, alleys or walkways adjacent to the premises to become littered;

(5) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;

(6) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;

(7) Permit any computerized sweepstakes device thereon to be operated at any time the premises is not open for business, or permit the entrance to be locked at any time that the premises are open for business;

(8) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;

(9) Permit the operation of any unlicensed computerized sweepstakes device upon the premises;

(10) Permit any person under the age of twenty-one (21) on the premises.

### **713.08 MISCELLANEOUS.**

(a) Any sweepstakes/internet cafe shall have an adult who is twenty-one years of age or over on the premises and supervising at all times the computerized sweepstakes devices during all hours of operation.

(b) The operator shall require a photo identification of every person to whom anything of value is given in connection with the sweepstakes/internet cafe and shall record the person's name, date of birth, and home address and a description of the thing given, a stated dollar value of the thing given, the date and time of the giving and, if an entertainment device is involved in the circumstances of the giving, the serial number of other identifying description of the device.

**(1) If the dollar value given for any single event for which there is a chance of winning, as calculated by the odds of winning provided to the City in Section 713.03, is Six Hundred Dollars (\$600.00) or more the operator shall also include a record of the person's social security number.**

(2) Since all gambling winnings are taxable, copies of Form W-2G that you provide to sweepstakes winners must be provided to the City of Napoleon Tax Division by February 28 of the following year (e.g., February 28, 2013 for tax year 2012).

(c) The operator shall post in a conspicuous place on the premises in the room where the computerized sweepstakes devices are located in no less than twenty point type:

(1) Each separate prize that may be given and each separate dollar amount that might be given.

(2) **The odds as stated in the filing with the City, as required in Section 713.03(A)(8).**

### **713.09 NUISANCE.**

A violation of this Chapter shall constitute a nuisance and is subject to civil proceedings, including an injunction, as well as prosecution for criminal violations of the State of Ohio and Codified Ordinances of the City of Napoleon.

### **713.98 SEVERABILITY.**

In the event any provision of this Chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this Chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional

### **713.99 PENALTY.**

Whoever violates any provision of this Chapter for which a specific penalty is not otherwise stated shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition to the penalties set forth herein, the license for the sweepstakes/internet cafe shall be permanently revoked"

# Memorandum

**To:** Safety and Human Resources Committee, Township Trustees, Council, Mayor, City Manager, City Law Director, City Finance Director, Department Supervisors

**From:** Gregory J. Heath, Finance Director/Clerk of Council

**Date:** 9/19/2012

**Re:** Safety and Human Resources Committee Meeting Cancellation

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The Safety and Human Resources Committee meeting scheduled for Monday, September 24 has been CANCELED due to lack of agenda items.

City of Napoleon, Ohio

## **CIVIL SERVICE COMMISSION**

LOCATION: City Hall, 255 West Riverview Avenue, Napoleon, OH 43545

### **Meeting Agenda**

Tuesday, September 25, 2012 at 4:30 PM

1. Approval of Minutes from January 24, 2012 (In the absence of any objections or corrections, the minutes shall stand approved.)
2. Current Eligibility List for EMT/Firefighter
3. Testing for EMT/Firefighter and Patrolman
4. Any Other Matters to Come Before the Commission

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Gregory J. Heath, Finance Director/Clerk of Council



appeals in 20 years.

#### 14.2 Tenure of Improperly Appointed Employees

This strikes automatic certification after 2 years.

#### 14.5 Amendment or Withdrawal of “Orders”

The 10 day calendar day requirement may be waived by the Commission. You shall freely allow after acquired evidence to be added to the order at any time.

*Moreover, this rule does not bar discipline when complicity to a criminal act exists by a person of higher authority to the employee. A supervisor can be held accountable for complicity longer than two years after the event.*

#### 14.8 Appointing Authority’s Burden of Proof and Scope of Hearing

This means you shall confine yourself to the issues of whether there is a proper order issued, whether we proved the allegations by a preponderance of the evidence (51%), and whether or not the discipline action was appropriate.

The Commission must define the criteria if they want to reduce the discipline. One of the reasons this can be done is: *The appointing authority at the time of making the order acted in an arbitrary or capricious manner when imposing the discipline.* This stops the employee from refusing to answer at the disciplinary hearing, then presenting information 10 days later and saying we owe them 10 days back pay. The appointing authority (AA) issues the discipline according to the information he has at the time of the hearing.

An example of an *abuse of discretion* would be if the infraction called for a one day suspension and the AA terminates the person. *Disparity of treatment* exists between similarly situated employees. We added that a reduced disciplinary action is appropriate if it is in the public’s best interest not to allow that disparity. An appellant can only get back pay if there was abuse of discretion when imposing the discipline at all and the amount.

#### 14.12 Rules of Evidence

Hearsay is admissible in the Civil Service proceeding. Cordes expressed concern about hearsay being admissible. Grahn said the Commission does not have to give hearsay any weight if they don’t want to. Hearsay is admitted in motions to suppress in probable cause hearings for felonies. The Commission has the prerogative to change this, but it is the law and it is Grahn’s recommendation as legal advisor.

#### 14.16 Conviction of a Crime

If we say committing certain crimes are violations of our rules, those crimes must be in the disciplinary code.

#### 14.33 Procedure in Record Hearings

Cordes expressed concern that Commission members cannot ask questions during the hearing. Grahn said the Commission does not have to hire a Hearing Officer. This person is typically hired because of

possible political repercussions or because the Commission does not know how to conduct a hearing. The hearing officer makes a recommendation and the Commission can accept or reject it. Mitchell asked if the Commission can ask the hearing officer questions when he reports to them. Grahn said the Commission can ask the hearing officer anything. He/She is their employee. The Commission can also talk to the hearing officer in advance of the hearing and offer questions to be asked, although the hearing officer typically does not ask the questions at the hearing.

#### 14.36 Subpoenas & Power of Chairman in Procedural Matters

The chairman (or appointed hearing officer) doesn't have to come back to the Commission in procedural matters.

#### 14.40 Resignation before final action – REMOVED

Grahn recommended that this rule be taken out of the Personnel Code as well. Resignation can still be done by mutual agreement of the parties. Bisher said the person was probably already given the opportunity to resign. Prior to this change, the employee might want to take a chance with the Commission since there was no cost. If there is a termination, typically there have been problems for quite a while.

#### 14.51 Appeals to the Court of Common Pleas

Appeals must be in accordance with the applicable section of Chapter 25 of the ORC except where Chapter 119 may apply.

#### 14.53 Deposit Required upon Filing Notice of Appeal

Removed specific fees and replaced with amounts or actual/estimated costs, whichever is greater.

Mitchell said he had no objections to the changes at all, especially since Grahn and another attorney looked at them. Cordes said it makes sense with Grahn's explanation. He is not happy about including hearsay, but is okay with it if it is part of normal proceedings. Grahn said it is for these types of hearings. Cordes wondered if Meekison should look at the changes first. Grahn said Nelson spoke to Meekison today. Nelson reported that Meekison said he reviewed the proposed changes. He did not state any objections. Heath said the Commission can table this if they prefer.

### **Motion To Approve The Revised Civil Service Rules**

**Passed**  
**Yea- 2**  
**Nay- 0**

Motion: Mitchell                      Second: Cordes  
To approve the revised Civil Service Rules

Roll call vote on above motion:  
Yea – Mitchell, Cordes  
Nay-

### **Other Business**

None

### **Motion To Adjourn**

**Passed**

Motion: Mitchell                      Second: Cordes  
To adjourn the meeting at 5:25 PM

Roll call vote on above motion:



**Yea- 2**  
**Nay- 0**

Yea –Mitchell, Cordes  
Nay-

**Date Signed:** \_\_\_\_\_

\_\_\_\_\_  
David Meekison, Chair

DRAFT

*City of Napoleon, Ohio*

## **CITY COUNCIL**

in conjunction with the

**Henry County Republican Central Committee**

**LOCATION:**

Heller Room

Henry County Hospital

1600 E. Riverview Avenue

Napoleon, Ohio 43545

### **Special Meeting Agenda**

**Tuesday, September 25, 2012 at 7:00 PM**

- A. Discussion/Action: Review of proposed replacement recommendation from Central Committee to fill vacant Council seat
- B. Any other matters that may come before Council

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Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio

Special Joint Meeting of the  
**PARKS & RECREATION COMMITTEE**  
and the  
**PARKS & RECREATION BOARD**

LOCATION: City Hall Offices, 255 West Riverview Avenue, Napoleon, Ohio

## **Agenda**

Wednesday, September 26, 2012 at 6:30 PM

1. Call to Order
2. Approval of Minutes
3. New Building for Pool from the Napoleon Aquatic Club
4. Any other Items Currently Assigned to Committee
5. Adjournment

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Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio  
**PARKS AND RECREATION COMMITTEE**

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**Special Meeting Minutes**  
**Wednesday, April 11, 2012 at 6:00 PM**

**PRESENT**  
**Parks & Recreation**  
**(P&R) Committee**  
**P&R Board**

**City Staff**

**Recorder**  
**Others**

**ABSENT**  
**Members**

**Call To Order**

**Approval Of Minutes**

**Expense Reductions And**  
**Revenue Enhancements**

Patrick McColley – Chair, Jeffrey Lankenau, Travis Sheaffer

Matt Hardy – Chair, Mike Saneholtz, Peg Funchion, Chad Richardson (arrived at 6:25 PM), Shawn Thompson

Tony Cotter, Parks & Recreation Director

Ronald Behm, Mayor

Dr. Jon Bisher, City Manager

Trevor Hayberger, Law Director

Robert Weitzel, Police Chief

Barbara Nelson

George Schmidt, Marv Lanzer, Mary Lou VanAusdale, Ken Hawley

David Prigge, Russell Shaeffer

Chairman McColley called the meeting to order at 6:05 PM

Minutes of the March 28, 2012 meeting stand approved with no objections.

Cotter thanked everyone for coming to the meeting. The main topic of conversation regarding *Expense Reductions and Revenue Enhancements* is the potential sale of alcohol at the golf course. Cotter put a listing of costs for this in the packet: annual license, additional staffing during peak hours, equipment, etc. for a total of \$4,200 - \$6,000 in additional costs. Greg Heath, Finance Director, checked on the cost of additional liability insurance and found out that we are already covered for this.

Cotter said based on comments he received, people are generally concerned about the current situation. He hasn't heard anything negative about offering alcohol for sale at the course. People seem more surprised that we are not doing this already. Enforcement of the rules regarding alcohol at the golf course could force business away.

Saneholtz asked about a permit to have beer on site. We don't have room at the present site for mixed beverages. Cotter said a D-1 permit is for beer only. A D-2 permits is for mixed beverages only. We can add a D-2 later if we want. The quota for licenses has been reached in the City but because the course is owned by a municipality, we can request an exempt permit. This goes to the Liquor Commission. If they approve, the application goes to the Division of Liquor Control. An application can take as long as 60 days; however, most of the entities the State checks with are here at the City which means it could be expedited to 2-3 weeks. There is an additional cost to add Sunday sales. Sunday sale hours are restricted from 11:00 am – 11:00 pm. There are no restrictions on other days. There is a one time processing fee of \$100. Background checks and electronic fingerprinting are required. He will find out who must be checked & fingerprinted.

Hardy asked what the additional person will do. Cotter said this person would get on the golf cart and ranger the course, check coolers, help speed play, check the parking of carts. They could even sell soft drinks, beer, candy, etc. from their cart. Hardy suggested not adding this position at the start and see how it goes. It is not a big course and people usually buy what they need for nine holes before leaving the clubhouse. Cotter said we could do that. He added the position primarily for enforcement reasons. The carts could be checked before they go out. Saneholtz said one person could be tied up in the clubhouse.

McColley suggested that instead of adding someone, one person could work an extra few hours a week randomly using the same people who work at the clubhouse. Saneholtz said this would be necessary for golf outings. Hardy said he doesn't think a ranger is needed for normal play. McColley said we may only need help for 8 hours a week. Cotter said if we don't want to monitor the situation that tight, it's easier to use current employees. He doesn't have a problem with that.

Thompson asked if there could be problems in peak hours with selling greens fees, concessions, etc. George Schmidt, who works at the golf course, said an extra person would help. We haven't had an extra person in 4-5 years. It would help us provide better service. Thompson said beer is another issue because it has to be served instead of someone pulling it out of the cooler. Cotter said we can monitor it as it goes. We may need someone or we may not. Sheaffer suggested letting circumstances dictate how many people are needed. Lankenau said considering the whole program, if people have a bad experience they won't renew their membership next year.

Funchion asked that numbers for beer sales, extra staff, etc. be itemized at the end of the season to see cost vs. profit. McColley said there will be extra costs, but many people told him they may not golf there anymore if they can't have beer. Sheaffer said we may sell more greens fees. Saneholtz said a swipe machine would take the heat off staff as far as selling to minors. He doesn't know the price of this. Cotter said Chief Weitzel either said he knows of one or has one. Cotter will check with him. Cotter said a certain amount of training is required, but staff can get this online. Lankenau asked if there is a local beer vendor. Hardy said there are two in Defiance. (Richardson arrived.)

Cotter said the permit would allow buying or carryout. Saneholtz asked if it costs more for a carryout permit. Funchion asked about a policy for this. Will we serve walk-ins? Cotter said people can take unopened containers offsite. We don't have a policy. If we don't want to be a carryout, we can make that policy. Richardson asked if the parking lot is considered off site. Saneholtz said it is not on the golf course. Sheaffer said neighbors may want it to be a carryout. Richardson said beer will be more expensive on the golf course than at a store. Saneholtz said it costs \$1.50 per can and \$10 per 6-pack at White Pines or \$9 per 6-pack at St. Mike's.

Hardy said we need to keep expenses as low as possible to make a profit. Lankenau said the big money number is staff and we can control that. Cotter said he can back this down to 7 hours a week. Bisher said he received a call from one woman who objected to selling alcoholic beverages in general. McColley said many people told him that the City should have done this 15 years ago. Saneholtz said Legion members who play on a league said they will be moving to Defiance if we don't allow alcohol on the course.

**Motion To Accept P&R  
Board Recommendation  
Re: Alcohol At Course**

**Passed**  
**Yea - 3**  
**Nay- 0**

Motion: Sheaffer                      Second: Lankenau  
To accept the recommendation of the Parks & Recreation Board to pursue a license to sell alcohol at the golf course

Roll call vote on above motion.  
Yea – Sheaffer, McColley, Lankenau  
Nay -

Mary Lou VanAusdale said since the Board is discussing revenues, she believes we should tap into the alcohol thing if people are doing it anyway. VanAusdale said the Board could generate additional revenue by hiring one photographer to photograph all sports teams. She provided information on VanAusdale Imaging Center’s proposal to do this. Hardy said the Board has regular meetings on the last Wednesday of every month. We will add this to the agenda of the next meeting. Bisher said we will have to decide if this is a bid item or quality based selection. Cotter said he worked with MaryLou several yearas ago along with several other photographers in town. It became a struggle. The City did not want to be in the business of telling coaches and parents which photographer to use. The policy is that we give information to photographers and they send each coach their information. The coach decides who to use. Bisher said VanAusdale’s proposal could be a good thing, but others may like a contract too. We could use quality based selection to standardize it. VanAusdale said it is difficult for photographers to try and catch many different coaches at the right time. Hardy said we will put this issue on the agenda for the next meeting.

Ken Hawley asked if the Board made other cuts as they did at their last meeting, cutting half of a club’s subsidy. Hardy said all subsidies have been cut in half this year. Hawley asked if the Board can make that decision without Council approval. McColley said the Parks & Recreation Committee makes recommendations to Council from the Board. Until recently, the Committee had not met since 2009. They do not oversee every item. That’s why we have a Board. They do a great job. Hawley asked why the Board is making cuts. Saneholtz said Parks & Recreation needs to stop getting money out of the City’s general fund. McColley said the City has a problem because the State is balancing budgets on the backs of local governments. We have to get control of expenses now. Hawley asked if other things are being cut throughout the City. If so, why is Council paying so much money for a survey? Sheaffer said the City Charter says Council must establish a budget for the Parks & Recreation Board. They must live within that budget. Council told all departments to cut their budgets.

Hawley said he pays taxes. He wants programs that take kids off the streets. Hardy said the cuts made were for non-Parks & Recreation programs. Hawley said those programs took kids off the streets. Hardy said if we have to lessen subsidies to outside programs, we do that first. Hawley said he commended the Board for doing that, but he went to a Council meeting and they are talking about paying a lot of money for a survey. Sheaffer said he has been very vocal against that survey. He invited Hawley to come to the Council meeting on Monday night and voice his opinion. Hawley said he wants programs that take kids off the street. You can pay a lot of money for surveys that just sit in notebooks. Lankenau suggested that Hawley bring this up at the next Council meeting.

Sheaffer said Council is asking the Parks & Recreation Board to live within the amount that they receive from income tax instead of dipping into the general fund.



City of Napoleon, Ohio

## **PARKS & RECREATION BOARD**

LOCATION: City Hall Offices, 255 West Riverview Avenue, Napoleon, Ohio

### **Meeting Agenda**

Wednesday, September 26, 2012 at 6:30 PM

1. Call to Order
2. Approval of Minutes
3. Discussion and/or Action on Request by the Napoleon Aquatic Club to Build a Storage Facility at the Swimming Pool
4. Discussion on Financial Reports from Golf Course and Swimming Pool
5. Discussion and/or Action on Rates and Fees
6. Discussion and/or Action on Trick or Treat Night Recommendation
7. Miscellaneous
8. Any other Items to Come Before the Board

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Gregory J. Heath, Finance Director/Clerk of Council



City of Napoleon, Ohio  
**PARKS AND RECREATION BOARD**

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**Meeting Minutes**  
**Wednesday, August 29, 2012 at 6:30 PM**

<b>PRESENT</b>	
<b>Members</b>	Matt Hardy – Chair, Mike Saneholtz, David Prigge, Peg Funchion, Russell Shaeffer, Chad Richardson, Shawn Thompson
<b>City Staff</b>	Tony Cotter, Parks & Recreation Director
<b>Recorder</b>	Barbara Nelson
<b>Others</b>	Patrick McColley, Lynette Smith, Yascha Chiaverini
<b>ABSENT</b>	
<b>Members</b>	None
<b>Call To Order</b>	Chairman Hardy called the meeting to order at 6:30 PM
<b>Approval Of Minutes</b>	Minutes of the May 30, 2012 meeting stand approved with no objections.
<b>Dog Park Proposal</b>	<p>Cotter said some folks are here who want to establish a dog park at E. Riverdowns Park. A group of people brought a proposal in 2007, but the City did not follow through because there was no funding.</p> <p>Lynette Smith introduced herself and said a group of people are doing fundraising for a pet park. They have about \$3,000 so far, but need permission to go ahead with the project before going to the Napoleon Foundation, etc. They are getting advice from veterinarians, dog trainers, and talking to people at other municipalities with dog parks. Smith met with the City Manager and gave him the proposed pet park rules. The plan is to fence in three areas of 100' X 100' each. This would allow one area to be closed and treated while the other two are used. Veterinarians on their board are concerned that the areas be treated to keep from spreading disease. They would fence each section as financing is available. Smith's group would like to know what the City needs in order to move forward with the pet park. Cotter said the area is on the southside of the parking lot toward the river bank. The size he originally suggested was 100' X 200'. When he priced fencing for that size in 2007, it was around \$10,000.</p> <p>Yascha Chiaverini introduced himself. He said an architect may make a mockup of what their board is attempting to achieve, but they need input from this Board in order to do it right. They will use lime to kill worms and it will not hurt the animals. Cotter said the group would have to go to the Planning Commission for a permit since this is a different use in the park. The Commission's decision would go to City Council for approval.</p> <p>Shaeffer asked what a dog park is. Smith said people would come to the City and sign up. They must prove their dogs have shots. They would be given an electronic card to get in the fence at the park. Dogs can be allowed off their leash in the fenced area. There would also be an area to calm dogs down before entering the area with other dogs. There would be an agility area to exercise and train dogs. Chiaverini said the group will have insurance. There will probably be one area for larger dogs and another for smaller dogs.</p> <p>Saneholtz said some neighbors might object. Cotter said the Planning Commission publishes notice of their hearings in the newspaper at least two weeks before the</p>

**Capital  
Improvement  
Program**

meeting so that neighbors know what is happening.

Chairman Hardy would like to see the specifics before making a recommendation. Sanholtz asked about the fee. Smith said people would fill out an application and apply and pay the City. Cotter said the Parks & Recreation Board needs information like a sketch of the size of the fenced-in area, a cost estimate, who is sharing the cost and maintenance, liability issues, and any proposed buildings. He doubts there would be a problem with fencing, but putting up a building in a flood plain area could be a problem. Chiaverini said the building would be similar to a shelter house. Smith said a building would be far in the future. Smith asked when the Board needs this information. Cotter said the Board will meet again on September 26. Smith thanked the Board for their time. Hardy thanked Smith and Chiaverini for coming to the meeting.

Cotter said the budget process for 2013 hasn't started yet, but will within the next couple of weeks. He presented proposed projects and equipment purchases for 2013 budget requests.

**GOLF COURSE**

Irrigation System Intake Improvements: \$20,000

We are looking at abandoning the intake area by the creek that floods every spring. We would like to connect instead to the raw water line that feeds the Wauseon reservoir and pumps back into our intake. Our engineering department thinks this is feasible. We are in preliminary talks with Wauseon about the project. With no flood issues to worry about, we could save \$4,000-\$5,000 in annual spring cleanup costs. The raw waterline runs underneath Glenwood Ave.

Golf cart replacements: \$10,000 4 units @ \$2,500 net cost

This is an annual cost. Old carts go into the City auction.

Golf cart path construction: \$5,000

This will probably be near Hole 9 or 4.

Point of Sale Software (multi-user): \$5,000

This would work like a cash register, but would give the finance department access to information and communicate back and forth. We may be able to VPN for remote access, in which case we wouldn't need this software.

Toro Groundsmaster Mower Deck Replacement: \$2,500

The mower is 10 years old, but we want to maintain it.

**POOL**

ADA Accessible Pool Lift: \$6,000

There is a government mandate to purchase a user accessible pool lift. It must be a fixed device. Our guys should be able to do the concrete work. The lift must be able to be operated by the user without assistance and be installed before the pool opens.

Leak Detection/Repairs: \$5,000

We will keep this in the budget in case something comes up. We are still losing some water, but it is a 30 year old pool.

## **RECREATION/PARKS PROGRAMS**

### Oakwood Park Paving: \$25,000

Chip and seal large lot. The entry drive and front entryway were paved. The coating by the engineering department seemed adequate to hold down the dust.

### Playground equipment replacement (Glenwood): \$25,000

The new playground at Ritter Park is done. We took the old stuff out and scrapped it. The other old equipment is at Glenwood and Swearingen. Riverdowns mostly conforms to safety standards. We could consider Wayne Park, but there is not much use there and we may just pull that equipment out. Prigge said we don't need as much equipment at Glenwood with Kidz Kingdom there. Thompson recommended putting in smaller things for small kids. Cotter said the biggest concern is that the old stuff needs to come out. Thompson suggested putting in a basketball court. Cotter said volleyball courts get a lot of use too.

### Park Mower: \$ 16,000

We are switching to zero turn mowers. They cost less, get the job done quicker, and are more efficient on gas.

### Asphalt Crack Sealing – parking lots and drives: \$3,000

Cotter asked members to let him know if they think of anything else to add to the budget before next month. Saneholtz asked about the cart lot at the golf course. Cotter said this is the lot for City carts. The estimate someone at the clubhouse received was very low and it came from someone who has only been in business for a couple of weeks. He will ask the engineering department to look at this.

## **Miscellaneous**

Richardson said the new school policy won't allow travel teams to practice at the schools. It has to be a school function. Cotter said one of the schools got broken into which caused the schools to make policy changes. When we use CD Brillhart or West School, we have to be out before 8:00 PM when the janitor leaves. The high school is 11:00 PM. Dr. Fogo has been welcoming to our programs. There is a 2 week minimum lead time for reservations.

Saneholtz asked if the City can water trees in drought time. Cotter said this is paid for by Tree Commission funds. We water newly planted trees.

Saneholtz said he sees golfers walk on the course with their own coolers on Wednesdays. We talked about hiring a ranger. Cotter said he proposed additional staff for this reason. We need a second person at the clubhouse who could move people along and make sure they get off the tee as well as take care of beer sales. Prigge recommended sending reminders about coolers when people buy passes in the spring.

Prigge asked if the learning path at Oakwood is done. Cotter said it is not done. This could be a funding or labor issue. Saneholtz said it is a labor issue. He will see Tom Mack soon and ask him.

Thompson recommended seeing if beer sales will pay for hiring part-time help at the golf course. Cotter said we grossed about \$3,200 in sales since July 2. The net should be about \$1,600-\$1,700. The course closes on October 31. There have been no issues so far due to beer. Thompson said this year won't give the full picture since we missed two months.





# Update

A weekly newsletter presented by AMP President/CEO Marc Gerken

September 14, 2012

## AMP joins FERC's order on PJM capacity brief

By Chris Norton – director of market regulatory affairs

AMP joined the American Public Power Association, Old Dominion Electric Cooperative, National Rural Electric Cooperative Association, Delaware Municipal Electric Corporation, Southern Maryland Electric Cooperative, and North Carolina Electric Membership Corporation in filing a brief Sept. 6 to the Third Circuit Federal Appeals Court asking the court to overturn FERC's acceptance of PJM's Minimum Offer Price Rule (MOPR).

The group argued MOPR is not needed because PJM and FERC have not identified abuses of buyer-side market power, and that the rule can prevent self-supply by entities such as municipals and cooperatives. The group originally filed the appeal Jan. 12, 2012.

MOPR is a rule in the capacity market that requires PJM and PJM's Market Monitor to review capacity offers from generators to prevent buyer- or load-side market power. The claim by economists is buyer interests can build generation and submit offers into the markets at extremely low prices for the purpose of drastically reducing the cost of capacity.

The problem MOPR creates for Load-Serving Entities, such as AMP, is if PJM artificially increases a capacity offer price based on a MOPR review from a new AMP generator – by, for example, requiring that a 20-year amortization period can be used to determine costs rather than public powers' more usual 30 years or longer period, that generator might not clear in the PJM capacity auction. If the generator does not clear the capacity auction, AMP and its' members would be forced to pay PJM for capacity, and would continue to pay the debt service on the new generator – thus paying for capacity twice.

A decision date has not yet been set, and it could be a time-consuming process.

Anyone with questions may contact me at [cnorton@amppartners.org](mailto:cnorton@amppartners.org) or 614.540.6417.

## Nominations open for AMP Board; proxy voting clarified

By Tim Werdmann – nominating committee vice chairperson, AMP Board of Trustees

Four at-large seats on the AMP Board of Trustees will be up for election next month at the organization's general membership meeting Oct. 24 during the AMP/OMEA Annual Conference in Cleveland. The at-large seats, for three-year terms, are held now by Bryan, Montpelier, Oberlin and Orrville.

Trustees, whether at-large or service group representatives, are elected by member community – not by individual. The elected municipality then appoints a representative to fill its board seat. Please contact me at either 513.785.7007 or [werdmant@ci.hamilton.oh.us](mailto:werdmant@ci.hamilton.oh.us) if your member community would like to be considered for nomination.

AMP General Counsel John Bentine provided the following clarification on the designation and notification of proxy in order to vote at general

see *NOMINATIONS* Page 2

## Hotel room block is filling up for conference

By Karen Ritchey – manager of communication programs

AMP's hotel room block at the InterContinental Hotel Cleveland for the upcoming 2012 AMP/OMEA Conference is filling up fast. Staff is working to add additional rooms, but attendees are encouraged to make reservations quickly if they are hoping to stay in the host hotel.

AMP's reduced room rate of \$140 per night will only be held until 5 p.m. on Oct. 1 or until the room block is filled.

To make a hotel reservation, please click [here](#). Or you can call the hotel at 216.707.4100 and provide the group code "SMK" to receive the reduced rate.

The hotel is located at 9801 Carnegie Avenue in Cleveland.

If you have any questions, please contact me at [kritchey@amppartners.org](mailto:kritchey@amppartners.org) or 614.540.0933.

## Deadline for conference program guide is Sept. 28

By Karen Ritchey

The 2012 AMP/OMEA Annual Conference is only about five weeks away. We appreciate the support of the conference sponsors and [Municipal Electric Partners](#) (MEPs) each year and would like to recognize them in the conference program guide.

If you are interested in having your company recognized as a sponsor or MEP in the program guide, the deadline is Sept. 28.

For more information, please contact me at [kritchey@amppartners.org](mailto:kritchey@amppartners.org) or 614.540.0933.



## News or Ads?

Call Krista Selvage at 614.540.6407 or email to [kbselvage@amppartners.org](mailto:kbselvage@amppartners.org) if you would like to pass along news or ads.

membership meeting, special meeting or service group caucus. Per Bentine: Each member in good standing shall designate in writing one representative and may also designate one (or more) alternates.

Each member, through its representative, shall be entitled one vote on any matter coming before the members at a general membership meeting, special meeting or service group caucus. Note: Proxy voting is permitted; however, a representative may only vote for one member community.

Designation and notification of such proxy must be provided prior to such general membership meeting, special meeting or service group caucus via correspondence by the use of electronic means, facsimile, courier or U.S. mail from an authorized official (i.e., mayor/city manager/board chair or general manager) designating a person to carry the proxy for all voting purposes. Emails will suffice if email address is from member; otherwise correspondence must be on member letterhead or their respective legal advisor's letterhead. Proxy correspondence should be addressed to Barbara Johnson at [bjohnson@amppartners.org](mailto:bjohnson@amppartners.org)

If sending by courier or U.S. mail: Barbara Johnson, American Municipal Power, Inc., 1111 Schrock Road, Suite 100, Columbus, OH 43229.

## AFEC weekly update

By Craig Kleinhenz – manager of power supply planning

Cooler weather is resulting in slightly lower production numbers out of AFEC. After last week's heat wave, temperatures have been hovering around normal for the last several days.

This has led to a weekly capacity factor of 73 percent (compared to 86 percent last week).

Despite the slightly lower temperatures the plant still did not dispatch off-line any nights this week.

The spread between AFEC base generation costs and On-Peak market prices was \$11/MWh cheaper from AFEC. Duct burners operated 29 percent of the hours.

## Energy market prices increase

By Craig Kleinhenz

The results of Hurricane Isaac are still affecting the natural gas market. The amount of natural gas production that was lost due to the hurricane is turning out to be larger than expected.

Production in the Gulf of Mexico is also returning at a slower rate than anticipated. This is leading to much lower storage injection numbers on a year-over-year basis.

October natural gas prices pushed up over the \$3.00 barrier this week, up \$0.27/MMBtu to end at \$3.04/MMBtu.

Power saw an increase as well with 2013 on-peak electric prices at AD Hub finishing yesterday up \$1.24/MWh from last week, closing at \$40.04/MWh.

## On Peak (16 hour) prices into AEP/Dayton Hub

### Week ending Sept. 14

MON	TUE	WED	THU	FRI
\$31.75	\$31.00	\$33.50	\$35.75	\$32.00

### Week ending Sept. 7

MON	TUE	WED	THU	FRI
\$33.50	\$41.00	\$48.50	\$51.25	\$41.50

AEP/Dayton 2012 5x16 price as of Sept. 14 — \$40.04

AEP/Dayton 2012 5x16 price as of Sept. 7 — \$38.80

## OEP receives excellence award

By Karen Ritchey

The Ohio Energy Project was recently awarded the Ohio Nonprofit Excellence Award for Central Ohio by the Ohio Association of Nonprofit Organizations.

The award recognizes creativity, execution, achievement and overall excellence of a specific project or program.

The award was given in recognition of OEP's Be E3 Smart Program, which addresses the needs of a specific target audience: elementary, middle and high school students, teachers, parents, and family members.

The program also covers the need to raise public consciousness of the environmental impact of energy production and consumption decisions.

The Be E3 Smart Program strives to:

- Reduce demand for electric energy in Ohio homes through installation of home energy efficiency devices and the adoption of home energy conservation measures
- Provide outstanding energy efficiency education programs to Ohio teachers, students and families.
- Promote student leadership with a unique and innovative school-to-home model
- Offer quality teacher professional development opportunity in energy efficiency education
- Provide effective, informative, and fun curriculum in energy efficiency education that emphasizes the best practices in science education
- Evaluate the program by collecting surveys and data to document the effectiveness of the program

"On behalf of the OEP Board of Directors I congratulate Executive Director Debby Yerkes and her hard working staff on recognition that is well-deserved," said Andrew Boatright, electric utility manager for the City of Westerville and OEP board president.

OEP is a non-profit partnership of professional educators providing energy information and education through the concept of "kids teaching kids." Through workshops, energy fairs, classroom materials, hands-on activities and teacher workshops, OEP programs help students succeed on the Ohio Achievement Test, as well as aiding in the development of student leadership, teamwork and presentation skills.

AMP has served as a "distinguished sponsor" of OEP since 1989. AMP sponsorship funds leadership workshops, energy bike fairs and teacher training in 28 participating AMP member communities.





## Ohio Legislature approves bipartisan pension reform

By Michael Beirne – assistant vice president of government affairs and publications

As has been widely reported, the Ohio Legislature unanimously approved bipartisan pension reform legislation Sept. 12.

The bill now goes on to Gov. John Kasich for his signature, which would allow Substitute Senate Bill 343 to become law. The five bills, one for each state retirement system, have received overwhelming bipartisan support.

Most of the reforms to Public Employees Retirement System (PERS), the largest state retirement system, are based on the proposals put forth in late 2009.

The legislation reforming PERS – SB 343 – has received unanimous support through the Senate and House process.

In addition to reforms proposed in 2009, the OPERS bill:

- Sets \$600 as the minimum amount a member must earn per month to receive full service credit and indexes the figure for future township trustee increases
- Clarifies that the vesting statute does not apply to COLAs issued after the bill takes effect to people who

retire on or after the effective date

- Generally blocks members from purchasing service credit if the member has a pre-existing service credit payroll deduction to purchase the same credit
- Requires the Ohio Retirement Study Council to make recommendations regarding board authority to adjust age and service requirements for retirement eligibility, COLAs and contribution rates
- Sets the general effective date at Jan. 7, 2013
- Allows the board to determine situations in which disability recipients are not required to get annual examinations
- Deletes provision specifying how full-time service is determined for board and commission members in terms of purchasing additional service credit
- Eliminates language through which a defined contribution plan member can keep on deposit any amounts they have accumulated

A copy of the actual legislation can be accessed [here](#); and the Ohio Legislative Service Commission summary can be viewed [here](#). These two documents are also available on the AMP Member Extranet.

## Basic 2 Lineworker Training class graduates

By Bob Rumbaugh – energy services consultant

Eleven employees from seven member communities completed AMP's Basic 2 Lineworker Training course Sept. 14.

The week-long program consisted of classroom work including safety and transformer training. The course also featured hands-on sessions including climbing skills, transformer and insulator change and a pole-mounted obstacle course.



Participants of the Basic 2 course included (from left): row one-Instructor Bob Rumbaugh, Gary Roub from Shelby, Dennis McDonald from Girard, Jason Kratochvil from Zelenople, Blake Caporaletti from Cuyahoga Falls, Josh Olesnanik from Girard and Instructor Roger Dean; row two-Aaron Licari from Hamilton, Instructor Gary Shultz, Curt Adkins from Hamilton, Sean Shaulis from Newton Falls, Mike Behary from Lodi, Luke Riddle from Cuyahoga Falls and Jonathan Hamilton from Yellow Springs.

## Update Classifieds

### Painesville seeks city manager

City Manager: competitive, DOQ, excellent benefits. The County Seat of Lake County, a full service city located east of Cleveland on the Grand River seeks a professional manager with vision and excellent leadership skills.

Current manager retiring after 15 years of service, two managers in last 40 years. Council-Manager form since 1919; seven council members elected to four-year terms select the Council President. Painesville values its small town character and historic downtown, provides high quality water, sewer and electric service, superior police and fire service and a growing park and recreation system; a pro-business community that actively engages in economic development. Total budget of more than \$81 million, 259 FT employees.

Graduate degree in public administration, planning or related field, 10 years government experience with five years in management position, experience in electric utility desired. Demonstrated experience in economic development and redevelopment, with vision and respect for traditional community. Record of excellent communication skills at City Hall and in the community. Strong budget and financial skills.

Interested applicants should visit [www.painesville.com](http://www.painesville.com) for details on candidate qualifications, requirements for submission of resume and selection process. Electronic submittals only to [cmrecruitment@painesville.com](mailto:cmrecruitment@painesville.com) by Oct. 19. EOE

### Wellington issues notice to bidders for sewer machine

The Village of Wellington will be receiving sealed bids at the Clerk's Office, third floor of the Town Hall, Wellington, Ohio 44090 until noon Sept. 28 for the sale of a 1995 Sreco Sewer Machine, self contained, with 2,148 hours. 1,000 gallon capacity, 2500 PSI, 5-year-old Myers pump, power washing hose and reel, 800 feet of hose, can be fitted onto a truck or trailer.

Each bid shall be accompanied by a certified check or bid bond payable to the Village of Wellington in an amount equal to the bid price as a guarantee that if the bid is accepted a contract will be entered into and its performance guaranteed.

Each bid shall set forth in full the name and address of each interested person therein and shall include estimated time for delivery after award on contract, warranties, if any, and a statement as to the availability of replacement items to maintain proper operation.

The Village of Wellington reserves the right to reject any or all bids and to waive informality of bids in favor of the municipality. Contact Karen Shaw, finance director, at 440.647.4626.

### Hamilton seeks assistant electric power systems superintendent

This position assists in the supervision and operation of the city's electric transmission and distribution system and generating facilities. Experience directing high voltage switching operations is desired. High school diploma or GED is strongly preferred. Advanced education up to Bachelor's Degree in Electrical Engineering is desired. Possession of a valid driver license is required. Salary: \$67,142 to \$86,091/year.

Submit one detailed resume (Word or PDF only) or application and driver's license by 5 p.m. Sept. 27 in person or via regular U.S. mail or fax or email to: Civil Service Dept., Hamilton

Municipal Building, 345 High St. - first floor, Hamilton, OH 45011; fax: 513.785.7037; email: [cspersonnel@ci.hamilton.oh.us](mailto:cspersonnel@ci.hamilton.oh.us). Specify interest in ASST ELEC PWR SYSTS SUPT. Visit the employment link at [www.hamilton-city.org](http://www.hamilton-city.org) for more details. An EOAAE.

### Village of Woodville is in need of Class II water operator

Immediate opening, applicant must have Class II water license, along with a background in water treatment/distribution and three years' experience preferred. A Class B CDL (Commercial Driver's License) is required or must be willing to obtain one.

Applicant should be highly motivated and have good mechanical ability; must be willing to live within a reasonable distance of the village.

Applications for this position may be obtained online at [www.villageofwoodville.com](http://www.villageofwoodville.com) or at the Municipal Building, 530 Lime Street between 9 a.m. to 4 p.m. Applications must be returned by Sept. 28.

Questions may be directed to Village Administrator Keith Kruse at 419.849.3031 or email at [utilities@villageofwoodville.com](mailto:utilities@villageofwoodville.com).

### City of Piqua is accepting applications for associate engineer

The City of Piqua is accepting applications for the position of associate engineer for the Municipal Power Department. The associate engineer performs engineering and planning for the Power System.

Responsibilities include, but are not limited to, working with engineering staff to complete a variety of projects, assisting meter technician and warehouse keeper as needed, maintaining GIS and mobile mapping program, and implementing distribution and transmission maintenance policy.

Qualifications include experience in the power utility industry or related business, management experience, and an Associate Degree in Engineering/Engineering Technology. Individuals with demonstrated related work experience may be considered with bachelor degrees in other disciplines.

Please send letter of interest, three business references, and application to 201 W. Water St., Human Resources Department second floor, Piqua, Ohio 45356, visit our website at [www.piquaoh.org](http://www.piquaoh.org) to download an application. Deadline for applications is Sept. 21. EOE.

## Calendar

Sept. 21—Napoleon Solar Project ribbon cutting

Oct. 7-13—Public Power Week activities in member communities

Oct. 22-25—AMP/OMEA Conference  
*InterContinental Hotel, Cleveland*

Nov. 29—AMP finance and accounting subcommittee meeting  
*AMP headquarters, Columbus*

