

**Village of Mantua
Public Hearing for 2010 Tax Budget
Regular Council Meeting
July 14, 2009**

Mayor Hawkins called the public hearing to order for the 2010 Budget at 7:00 p.m. She opened the floor to any questions regarding the budget. There were none. Motion to close the public hearing at 7:02 p.m. made by J. Rogers with a second from L. Schilling. All ayes on vote.

Mayor Hawkins called the regular meeting to order at 7:04 p.m. and led the pledge of Allegiance. There was a moment of silence for the passing of Glenn Talmon. A past Potato Festival Parade Marshall and very generous man to both the Village and our parks.

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

Others Present: Clerk-Treasurer Jenny August, Asst. Clerk Susan Skrovan, Village Solicitor Michele Stuck, Police Chief Harry Buchert, Rich Iafelice with C.T. Consultants.

Public: Wesley & Ashlee Hawkins, Norm Erickson, Pearl Campbell, Cindy Toth, Chuck Keiper, Bill Zoller, John & Linda Clark, Bill & Patsi Gast, Scott & Lauren Weaver, Jerry & Christine Zimmerman, and others.

Minutes: Motion to approve the meeting minutes of June 16, 2009 made by L. Schilling with a second from B. Prescott. All ayes on vote.

Mayors Report: Art on the Hill was held last Saturday, July 11th and was very successful even with the rain. Donna spoke with Mark Trushel of Mantaline recently, they plan to close their Aurora plant by 8/31/09 and move all operations to Mantua. They currently employ 70 people which is still down from 127. She recently attended an event put on by Steve LaTourette's office. Donna said she is proud of our service and police departments.

Finance Report: Clerk-Treasurer, Jenny August gave the financial report as of 6/30/09. The auditors are still here but should be finished with their audit by the end of July. Jenny said she had to advance funds to pay the water and sewer debt payments as Council had anticipated, however, it was not as much as thought. She wondered where the monies would come from for the Storm Sewer fund. She felt Council may want to amend the ordinance for the extra \$5.00 surcharge on water/sewer bills to help this fund out.

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

Motion to accept two \$100.00 donations for the Glacial Esker Trail Fund made by L. Schilling with a second from M. Hura. Marty explained the first donation was received from F & S Automotive, Marty matched that donation with his own. All ayes on vote.

Bills of Resolution: Linda Schilling questioned Ed Trego having four hours pay while he is still on sick leave. Mayor Hawkins said he stopped in regarding some EPA paperwork. Village Solicitor, Michele Stuck asked if he has a work release to come back to work. Donna said no. Motion to approve Bills of Resolution for July omitting the C.T. bills made by J. Rogers with a second from B. Prescott. Marty asked about item #43, a certified letter to Ed Trego from the Auditors. Do we pay for that or them. Jenny explained. J. Rogers called to question. All ayes on vote.

Motion to approve the C.T. bills made by L. Schilling with a second from M. Hura. B. Prescott abstained, all other ayes on vote.

Motion to approve the addendum to the Bills of Resolution made by L. Schilling with a second from M. Hura. All ayes on vote.

Linda Schilling made a motion to get rid of the grant for the Northeast Quadrant water project. The Mayor said this is not the proper time; this should come under new business.

Legislation:

ORDINANCE 2009-32: AN ORDINANCE ESTABLISHING A VIDEO SERVICE PROVIDER FEE TO BE PAID BY AND VIDEO SERVICE PROVIDER OFFERING VIDEO SERVICE IN THE VILLAGE, AUTHORIZING THE MAYOR TO GIVE NOTICE TO THE VIDEO SERVICE PROVIDER OF THE VIDEO SERVICE PROVIDER FEE, AND DECLARING AN EMERGENCY. 2nd READING. Motion to suspend the rules made by L. Schilling with a second from B. Prescott. All ayes on vote. Motion to approve made by L. Schilling with a second from B. Prescott. All nays on vote.

RESOLUTION 2009-33: A RESOLUTION AUTHORIZING THE MAYOR AND THE CLERK-TREASURER TO ENTER INTO AN AGREEMENT WITH THE VILLAGE OF HIRAM FOR THE PROVISION OF DISPATCHING SERVICES TO THE VILLAGE OF HIRAM, WHICH SERVICES INCLUDE DISPATCHING FOR THE HIRAM POLICE DEPARTMENT AND THE HIRAM FIRE DEPARTMENT, INCLUSIVE OF EMS SERVICE DISPATCHING. 2nd READING.

RESOLUTION 2009-36: A RESOLUTION AUTHORIZING CERTAIN ADJUSTMENTS TO THE 2009 APPROPRIATIONS AND DECLARING AN EMERGENCY. Motion to suspend the rules made by L. Schilling with a second from B. Prescott. All ayes on vote. Jenny explained that this was for increasing appropriations. Motion to approve made by L. Schilling with a second from J. Rogers. All ayes on vote.

ORDINANCE 2009-37: AN ORDINANCE AMENDING ORDINANCE 2009-29, TO PROVIDE FOR PUBLICATION AND PUBLIC HEARING BEFORE ADOPTION OF THE 2010 TAX BUDGET, AND DECLARING AN EMERGENCY. Motion to suspend the rules made by L. Schilling with a second from J. Rogers. All ayes on vote. Motion to approve made by L. Schilling with a second from J. Rogers. Michele explained what transpired. Call to question, all ayes on vote.

ORDINANCE 2009-38: AN ORDINANCE AMENDING, ADDING TO, AND OTHERWISE MODIFYING, CHAPTER 131 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MANTUA, CONCERNING THE POSITION OF MAYOR. 1st READING.

ORDINANCE 2009-39: AN ORDINANCE AMENDING, ADDING TO, AND OTHERWISE MODIFYING, CHAPTER 121 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MANTUA, CONCERNING THE POSITION OF VILLAGE COUNCIL MEMBER AND DECLARING AN EMERGENCY. Motion to suspend the rules made by L. Schilling with a second from J. Rogers. All ayes on vote. Motion to approve made by L. Schilling with a second from J. Rogers. Village Solicitor, Michele Stuck, gave her legal opinion, which applies to both ordinances, 2009-38 & 2009-39. Upon her review, she recommended to Council that the second line of Section 121.04(a) be stricken from each ordinance. Motion to amend Ordinance 2009-39 as directed by the Village Solicitor made by B. Prescott with a second from J. Rogers. All ayes on vote. Motion to pass as amended made by B. Prescott with a second from J. Rogers. All ayes on vote.

ORDINANCE 2009-40: AN ORDINANCE DECLARING THAT THE PRIVATE OFFICE CURRENTLY BEING OCCUPIED BY THE MAYOR LOCATED WITHIN THE CLERK-TREASURER'S OFFICE LOCATED AT 4650 HIGH STREET, THE SITE OF THE FORMER CLERK-TREASURER'S PRIVATE OFFICE, IS TO BE TURNED OVER TO THE CLERK-TREASURER AND PERMANENTLY DESIGNATED AS THE CLERK-TREASURER'S PRIVATE OFFICE, AND DECLARING AN EMERGENCY. Motion to suspend the rules made by L. Schilling with a second from J. Rogers. R. Hawkins voted no, all other ayes on vote. Motion to approve made by L. Schilling with a second from B. Prescott. The Mayor asked for discussion. Mayor Hawkins had a lot of discussion considering this is the office space she has been occupying for about a year and a couple months. This directly impacts not only herself but will impact future Mayors as well. It does so because it says right in the ordinance, "permanently designating", this is a public building.

That could be a very long time considering how old this building is. As she reads through this, she first wanted everyone to know they might wonder through the course of this, couldn't this have been resolved and why wasn't it resolved prior to it coming to an ordinance form. To be perfectly honest with you, she could not answer that question. She knew nothing about this ordinance prior to Friday evening when she picked up her Council packet, much to her dismay. Donna said it was a miserable way to spend a weekend. After seeing this, she asked Michele for a legal opinion. She truly appreciates the time and effort she put into it. However, prior to this, Tom Reitz had rendered a legal opinion as well. Michele's opinion is completely opposite to the legal opinion Tom Reitz rendered. The Mayor wanted to give a little background on this, some of which is not very pretty and apologized to the citizens for it. She had been personally told by a Councilman that Council would not abide by the decision made by Solicitor Reitz if it was not the outcome they were looking for. This is the same form of thinking that has caused Linda Schilling to be investigated by the Ethics Commission. The general disregard for the law that has caused at least one lawsuit that the Village is currently paying for. Linda stated it was not hers. The Mayor said no, it is not Linda. Therefore, because of these conflicting legal opinions, it is difficult to know exactly what to do. The Mayor sought to obtain a third legal opinion from David Worhatch, who is also a municipal attorney. Donna said Michele had stated when she applied for the position here, "I realize that I do not have all the specific experience in municipal law that Mr. Reitz had". The law is different and is interpreted differently. The Mayor read the legal opinion from David Worhatch regarding Ordinance 2009-40.

"Dear Mayor Hawkins, you retained me to review Ordinance 2009-40, a proposal by some on Village Council to exercise legislative authority in the way that would appear to infringe on your inherit executive power to allocate available resources in such manner as you would deem most efficient so as to allow the elected official of the Village to serve the needs of Mantua's residents. Specifically the ordinance, if adopted, would appear to force allocation of office space within the Village administrative facility in ways that would appear to compromise or usurp your inherit executive powers as Mayor. In the course of looking into this matter on your behalf, I had the occasion to speak with the former Village Solicitor and to review the current Village Solicitor's July 14, 2009 legal opinion regarding the proposed ordinance. Based on my own experience in municipal law, both as an attorney with 30 years experience and a former city councilman, I must say that I align myself with the views of the former Village Solicitor on the question of whether Village Council may specifically direct how office space is allocated within property owned by the Village. It would probably be pointless at this time for me to provide you with extensive citations of statutory provisions and case law that would seem to support the views of the former Village Solicitor especially since he already shared his views with Village Council before he was replaced. Divisive to say however that the general power of the legislative authority of a Village respecting the management of the property of the municipal corporation **does not**

in my view, mean that the legislative authority has powers of micro-management. In as much as such actions would conflict with the inherent executive powers conferred on the Mayor of the Village of Mantua under several provisions of title seven of the Ohio Revised Code. Should Village Council, nevertheless, decide to rely on the opinion of its current Village Solicitor and adopt this ordinance, you would have legal recourse.” The Mayor said she could launch a direct challenge and could do all this stuff she has no desire to do.

President of Council, Jim Rogers said, since the Mayor read that far, would she read the rest please, verbatim, thank you. “Should Village Council, nevertheless, decide to rely on the opinion of its current Village Solicitor and adopt this ordinance 2009-40, you would have legal recourse. You could launch a direct challenge of Council, action by way of a lawsuit seeking relief asking the Portage County court of common pleas to decide whether management includes the concept of micro-management when it comes to legislative authority over the property of the municipal corporation. Alternatively, you and other electors of the Village could join in a taxpayer’s lawsuit that could challenge the current Village Solicitor’s opinion and seek relief in a mandamus to compel Village Council and the Clerk-Treasurer to discharge clear legal duties under Ohio law while simultaneously securing injunctive relief to prevent future abuses of your powers as Mayor. If the action were brought in the form of a taxpayer’s lawsuit, this position should prevail.

This would mean that the Village of Mantua likely would wind up paying the legal expenses for both sides of the dispute. For Ohio Law allows the taxpayer to seek, as part of his or her claim for relief, a reward sufficient to reimburse all attorney fees and expenses of having to do the Village Solicitor’s job in court by making sure Village officials follow the law. Please let me know if you would like to pursue either or both of these causes of action. I stand ready to act as your counsel and as counsel for any taxpayer who might want to join in your efforts to seek judicial review of the proper interpretation of the statutes on which the current Village Solicitor relied in advising Village Council that it may pass Ordinance 2009-40. Without compromising or usurping your inherit executive powers as Mayor, I await word from you. Sincerely, S. David Worhatch.”

That being said, of course that is not the route Donna wants to go at all, she has no desire to do that, it is just legalese by an attorney.

Donna Hawkins then read a statement of her own. “Since it seems that Jenny would like her own private office for security purposes, even though prior to Jenny coming on board, the current setup of the clerk’s office was at the suggestion of the auditor’s office at the time it was done. Through donations, the clerk’s office was made to conform to the wishes of the auditor, a buzzer was installed and locks were put on cabinets. I also wanted to know myself, personally how this was handled in other municipalities, what they were like. She visited the Village of Hiram, where Jenny did train for a couple of months, it is set up really much worse than ours is. The Mayor’s office is attached to the income tax and clerk’s office. The clerk and the income tax clerk actually share an office and the Mayor’s office is as close as I am to Ben. It is very close and would be very uncomfortable but that is what it is.”

Here is what we currently have for our offices. Downstairs we have approximately 600 square feet that Jenny has or 20’ x 30’. The Mayor’s office is 10’ x 16’. Jenny has upstairs her income tax records, a computer and a desk and phone. Our previous Village Hall was also set up exactly as our current downstairs offices as well. There was the clerk’s office and the Mayor’s office. Over the years, which is also why ‘permanently’ gets in the way, if the Mayor did not come in, it was the clerk’s office, if the Mayor chose to be an active Mayor as she does, then it was the Mayor’s office, it fluctuated between the two. Furthermore, she would recommend the Village not spend any more money for the lights, the heat, central air, and even more importantly, the elevator. We have had trouble with our

elevator and she does not wish to add additional stress to it. The way Donna sees it; she was elected by the majority to make changes to improve the overall quality of life for each and everyone of us living here. To be available to the citizens was her desire. The office belongs to the people, not to the Council, not to the Clerk and not to the Mayor. As Mayor, she would like to remain available to the people; she does not feel she can do that properly upstairs. She recommends to Council and to the citizens that a door be placed that would enter into the Mayor's office from the main hallway, the same as the clerk's office does now. This would be a little inconvenient because the clerk's office is where the photocopier is but it certainly would not be as inconvenient as having to come from upstairs to use the copier. The Mayor would pay the expense for the door to be placed in the hallway. This would allow the clerk to have her own private office.

Jenny stated Tom Reitz's opinion was that he felt the decision should be up to the executive branch consisting of the Mayor, the Clerk, the Police Chief and the Village Administrator, both of whom report to the Mayor. How can that be fair when two of the four report directly to the Mayor. Jenny does not think that was right to say the executive branch would decide when 5 out of 6 Council members voted that she should be in that office for the security and privacy of the residents when they come in to do their taxes. Jenny said as far as the office space in Hiram, the Clerk in Hiram said she also could use a private office; however, they do not have room in their building. We do have room in this building. Jenny said she was told that the clerk's office was given away by a bitter outgoing clerk in an act of revenge. She apologized for having to say that about Betsy, however, Jenny felt if she was still in office, she believes she would not have given that office up, you need the privacy. Anybody with decent morals would not have taken that office until the new clerk had a chance to use it herself.

Mayor Hawkins used the gavel to bring the meeting back to order and felt it was necessary because she believed Jenny infringed on her character. Jenny said she did not specify Donna and apologized for saying that. The Mayor said Jenny did make the comment and added that before she ever took the office, she invited Jenny to her home and asked her how she felt about this. Donna said she did not have a problem with it, and as a matter of fact, Jenny had said she really wanted to move upstairs altogether.

Jenny said she cannot use the upstairs office because Sue is part-time, when people come into talk about their taxes, she cannot leave that downstairs office and come up here. She actually has only been able to use it one time for one appointment this year. Secondly, as far as an inactive Mayor, she would say Claude did not use this office because he had a full-time job and he provided for his family, food, shelter and medical benefits. By the time he was able to use that office the building would have been closed, he worked from home. Claude did do some good things for the Village, he did bring in University Hospital and she could make a list of some other good things he did. Jenny did not think it was fair to say he was an "inactive" Mayor just because he did not sit in that office in the evening.

Linda Schilling wanted to comment on something the Mayor said in her statement regarding the old Village Hall. Claude did not have an office he had a mailbox. When we moved up here, the blueprints clearly show the office downstairs as being the clerk's office; Claude's office was to be upstairs next to the zoning inspector's office. **Linda** also felt the Mayor bringing up what was gone over in the past about her was just really low.

The Mayor responded as far as Claude not having an office, he chose not to and that was perfectly fine. Any Mayor can choose to do whatever they wish to do in order to perform their duties. There were other Mayors in the old Village Hall that did choose to use the office, the same way she chooses to use this office. Donna felt that if someone calls the clerk to set up an appointment, you set up the appointment and then you have your assistant clerk downstairs to answer the phone, it is all about appointment setting.

Linda Schilling stated we could keep going on and on, Jenny may have two appointments a week, the Mayor is not in the office 40 hours a week, we can go back and forth on this but the vote is going to happen tonight.

Roger Hawkins commented that in the beginning Jenny was offered to subdivide that main office downstairs so that she could have a private section within that office, she turned it down and said it would not be necessary. He knows when one of the auditors was in, she was concerned about some of the cabinets that did have locks on them, were unlocked. Security is a matter of good housekeeping, things put away when they should be put away. The auditor at no time said she should have a separate office, she said things should be put away and locked. Also, as far as Claude, everyone did say he was not here. If you are not here, you do not need an office. Roger felt it was clear at the last election that people did not want what we had with Claude. What we had in the past with Claude was fiscal emergency, now we have fiscal responsibility. When businesses can shut down a floor for economic sense, they shut down a whole floor. Now we are going to have additional expenses with opening up a whole floor when we are trying to cut expenses. He felt this was a poor economic move, more wear and tear on the elevator, and there is no security upstairs. Downstairs a person has to be buzzed into the office. He did not know whether there was a way to put security on the elevator, something could happen up here and no one would know for hours. Linda said there is a camera behind the Council table that covers the elevator door. Roger said there is no camera back in those offices, someone could come in looking casual and nothing would report what is going on in the back offices. There are alternatives.

Ben Prescott called to question. The Mayor said you cannot call to question because there is still more discussion. Donna wanted to say to the citizens that what Council is about to do by passing this ordinance with the use of "permanently" is giving this person about the size of a three-bedroom home for office space. She felt they need to think about this as a "permanent" situation. This is a difficult situation sitting up here, knowing so many things that people do not know.

Donna believed this is actually a case of harassment towards the Mayor as far as she was concerned. When you have the Village Clerk calling the police on the Mayor and calling the police on the Village Administrator and would have called the police on the Police Chief if they had not been the police, you have to wonder. Then, someone in the clerk's office, takes something out of your mailbox and copies it before you have seen it and gives it to a councilperson, you have to wonder about that too. While on the subject, Donna wanted to tell the citizens that she has it on recording where your fiscal officer, sitting right here said, "The Village of Mantua does not matter".

President of Council, Jim Rogers interjected at this time by saying the Mayor was violating Rules of Council. Donna replied to Jim that it was recorded in a public meeting. Jim said it does not speak to the ordinance that we are discussing and it is personal. Jenny said she would be curious to hear how that was used.

Audience member, Phil Sage asked to speak as it relates to the Sunshine Law; he asked whether the ordinance that was prepared was properly posted as compliant with the Ohio Sunshine Law. When he was on Council, there were five public boards where this would be posted in advance by at least three days before it could be considered by Council. How is this ordinance compliant? Jenny said no, they are posted for so many days after the ordinance is passed. We do have five places, Middlefield Bank, post office, the drug store, the police department and the Chamber of Commerce office. The Mayor spoke up to add she thought Phil was talking about prior to the legislation, these ordinances should come out of committees but they do not. Ben stated they do come out of committees. Donna said no sir, what committee did it come out of. Ben said the finance committee. Roger said it

was never discussed; it was just presented in committee. He is on that committee. The Mayor said it was discussed after it went into Council packets on Friday night; it was discussed Saturday morning when it already was an ordinance. Donna said she believed Michele told her that Ben had written it. Michele said she did not know who wrote the ordinance, she received it in emails and there was communication from Ben and Jenny. Ben said he asked Jenny to write the ordinance. Jenny said she was asked Friday morning to write it. Roger said that is not a committee putting it together, it is one person putting it together. The Mayor asked if that is the case, then how was it discussed in committee. Ben said he was not going to talk about it any further. Phil Sage again asked if Council is not complying with the Sunshine Law, then you cannot pass this ordinance on first reading or suspended reading. Ben said the ordinance complies with the Sunshine Law. Phil asked where it was posted. Harry said the ordinance only has to be displayed after it is passed not beforehand. The Mayor asked Harry if the ordinance has to come from a committee meeting. Harry said no.

Motion made by R. Hawkins to table Ordinance 2009-40. The Mayor said he cannot until he recognizes him. It is still open for discussion. The Mayor recognized Bill Zoller.

Bill Zoller said when this building was designed to be changed over to the Village Hall, the plans that were submitted to the Fire Department and to the Zoning Department stated that clearly to be the clerk's office downstairs. This has been going on too long; it is a waste of our time. He felt it was wrong of the Mayor not to give the office up, that the Mayor was conspiring with Betsy to get her out of there; that office belongs to the people.

Donna added as far as the design plan of the offices; let us not forget that the former mayor was involved in the design plan. He was asked if he wanted an office and where he wanted it, he said he wanted it upstairs. That was the choice he made. When the blueprints went down, it said the clerk's office on it. That is correct but only because one Mayor out of all the Mayors the Village has had said he wanted to be up here. Donna again would caution Council with the word permanently. Harry said to the Mayor that there is no such thing as permanent, Council can always amend or rescind this ordinance.

Lauren Weaver asked whether the taxpayers were paying for the third legal opinion the Mayor had received. Donna said no, she paid for this third opinion herself.

Roger Hawkins did not see how the Mayor could perform her job in a coat closet. We have a very active Mayor. She was voted in because the people wanted change and they got change. The people need to decide whether they want to keep this change going and have more change. He believes this Council has been nothing but a stumbling block for this community.

Linda Clark asked the Mayor if she spoke with the citizens on their views. Donna did not wish to involve the citizens in this matter, especially when it becomes a battle. She still believes this is a case of harassment for the Mayor.

Patsi Gast did not feel this was harassment at all. When the Mayor was voted in, it was as a part-time mayor. She made herself a full-time mayor and now costs our Village, when we are really hurting, another \$7,000 dollars plus a year for hospitalization. As a citizen, she resents it.

The Mayor stated when she took this position, she really thought it came with the position; it had nothing to do with anything else. Roger added it had been stated in a meeting before the election. Donna thought Claude did not have the insurance only because he had it through his work.

Linda Schilling said it was never mentioned at a meeting that the mayor got insurance. Wesley asked the insurance agent when the contract was changing, if council members could get insurance, it was never stated that the mayor automatically got insurance.

Dave Sluka was not getting any objective feedback because the only person speaking on the Mayor's behalf was her husband; everyone else was speaking against her. He heard she was willing to pay for some compromise to modify the office. Donna said yes, it is already split, all that would have to be done is a door put in off the main hallway. Dave asked if there was any interest in meeting in the middle. Jenny said even if we did something like that, she would still not have the privacy when people come in to talk about their taxes. Many people including the water/sewer billing clerk and Council members come in and out of that main area of the clerk's office where her desk is now. Dave said this is then all about security for public records. Jenny said yes it is, if she were to have any work in progress out and want to leave for lunch, it would take at least ten minutes to lock it all up and then when she returns, unpack it all again. Dave asked who would be more inconvenienced by a move, Jenny who works full-time or Donna who works part-time. It might be something to think about. Donna responded that the way she looks at this is the last time this all came up, Jenny was offered a donation to make a private office within her 600 square foot area, she said she did not need it or want it.

Phil Sage commented that when he was on Council, the last pissing contest in the end cost the Village over \$130,000 to settle with the contractor. He strongly urges Council to table this motion, send it back to committee, consider the cost ramifications of passing this volatile situation, and balance that against other alternative compromises.

Ben Prescott said it was discussed in committee this past Saturday at Finance.

Donna Hawkins said we have two legal opinions from municipal attorneys and we have the opinion for our current Solicitor, Michele, who said herself she had no municipal background. She felt Council really needs to take that into consideration.

Jim Rogers said the Mayor has our Village Solicitor's legal opinion and one from someone no one on Council knows and not at our request and who is not our solicitor.

Roger again felt it should be tabled and discussed further in committee and look at costs. Others did not agree with this and did not wish to see this tabled.

Jim Rogers called to question. R. Hawkins voted no, all other ayes on vote.

Committee Reports:

Police Chief, Harry Buchert reported there is no safety report this month; it was not ready in time due to the change in the Council meeting. It will be on record and available at the next Council meeting. The next safety meeting will be July 30 at 6:30 a.m. at the police department. His department has received a grant from Homeland Security and Emergency Management Agency for some safety equipment for about \$3,300.00. The art festival was a success, no police problems other than traffic. Triathlon down at the park was also a success. Harry would ask in the future to keep in mind when scheduling; we did experience some parking problems with all the events at the park.

Donna Hawkins spoke as acting Village Administrator for Ed Trego while he is on medical leave. Donna gave an overview on what the Service Department has accomplished. Some clay tiles from the storm sewer drains are being repaired on High Street. The work by McDonalds has just been finished by Stamm Contracting. Regan Street is done, Walnut Street turned out to be a gas leak. The north river lift station had alarms going off due to its current condition. It was cleaned by our Service Department but will require further

maintenance due to the fact it has not been professionally cleaned in ten years. The Park District has sprayed the trails. The Mayor has been pleased with the work ethics of our Service Department and she thanked Tom Bowersox for his leadership and Donna Maynard for all her help in Ed's absence.

The Mayor was in receipt of a letter from the Crestwood School Board in which it says they are not willing to grant an easement to the Village of Mantua for the waterline project and she went onto read the letter. Donna contacted Rich lafelice for any possible alternative plan.

Rich lafelice said the only other idea would be to reduce the scale of the project. The original project was for \$220,000 with most coming from a grant, the rest being financed with a loan by the Village. Should we not utilize the loan, we have an \$180,000 grant to work with, with no money out of Village funds. The line could still be improved upon, or convert part of this money to look into a land acquisition to purchase an easement right-of-way if the school was interested.

Jim wanted to comment that he assumed the school board acted on principal rather than financially so that option to purchase an easement would not be viable.

Motion made by L. Schilling to get rid of the grant money since we have not been given an easement for the project.

Roger thought Norm Erickson was going to coordinate another meeting with the school board to see if something could be worked out, was any attempt made to do this. Norm said they discussed this at a board meeting and the results were the letter before Council.

Chuck Keiper, who lives up there on Fernway, commented his water pressure is low and even shuts off at times. He asked whether this was the same school board that wants the taxpayers to pass a levy for a new school building, that we do not need.

The Mayor wanted to ask Norm Erickson a question being on the school board but Norm interrupted her to say she is aware that any discussion would take place at school board meetings. He does not wish to come here to a Council meeting as an individual and talk about school business. Donna was not aware of this but could appreciate it.

Wesley Hawkins asked about comments made earlier of purchasing other easements along the school's property and whether it was feasible. Michele said the school easement is the most direct; purchasing other easements would not be any more cost effective. Unless we could obtain the most direct route, it will be cost prohibitive. Roger asked why the Village would not have the route of eminent domain when it involves the health and safety of its residents.

Rich lafelice spoke, not as a lawyer, but said eminent domain does not apply to a waterway. This right would apply by statute to any roadway widening unless you are in a state of public health or welfare such as with sanitary sewers. The low water pressure is not necessarily a health hazard it is an inconvenience. This problem has been going on for years and years and at some point, the Ohio EPA will mandate you to correct it. Roger asked should EPA mandate it without this grant, what would be the cost to the Village. Rich said the cost would be the same whether you have a grant or not, it would have to be done. Mayor and Council reviewed a map of the area. Linda Clark asked the Mayor what violations have we been sited for from the EPA. Donna said we have not been sited at this point; we have received a letter of potential violations. Donna knows the school board did not wish to go through the driveway and thought there was a way not to impact it. This would be a benefit to the school district; however, they do not see it that way.

Before returning any grant money, the Mayor would like to go back to the school board and make another attempt at an easement just to run through a small segment going up toward the tower that would not affect them at all.

Cindy Toth on Franklin Street, spoke on her water pressure which had been improved and it still sometimes goes down to very low or no pressure at all. She felt it was worse now.

Bill Gall on Fernway asked if he is paying the same rates as Village residents. He is a township resident. Donna said if he is a township resident, you would have a surcharge. He thought there should be a rate reduction because of the poor water pressure.

John Clark said that the last 8 to 10 months he has been telling Council about a 6" line up at the school parking lot, can someone take 20 minutes to go up and open the valve on that line to see what happens. Council needs to check to see if there is an easement on the south side of the school property where the tennis courts were, at least make an effort.

The Mayor asked Rich if he had anything to say about this valve. Rich lafelice said he has no idea. **Linda** Schilling stated that Ed said he was going to look into it.

Bill Zoller suggested as a band-aid, a resident could put a well pump on with a booster tank to maintain water pressure. He did this at both his houses and maintains 90 psi. Donna asked that anyone desiring to do this, please check first with our Village Administrator to make sure it is legal.

Marty asked if we have any plats showing where the lines and valves are located to see if John is right. Rich said they were aware of the 6" line; we have maps of all the Village lines. As to whether this could improve the situation, he was never asked to look into it.

Linda Schilling withdrew her motion to return the grant until next month and until Rich can research this further.

Patsi Gast asked Rich lafelice whether the water line they want to run to Fernway and Ambler would also continue to S.R. 82. Rich replied no, this is strictly from the 12" line that went north to serve the new schools. The line from the school property would come to S.R. 44 and then connect with the system there to bring that entire quadrant up to the next pressure level. The design 10 years ago of the Reservoir Drive booster station was designed so that in the future, if and when development occurred to the north, the line could be extended and the Village could serve more customers without incremental costs.

Bill Gall asked if we do the research on this valve, how much would the Village get charged for C.T. to open the valve. Rich said they have no authority to open the valve. Rich said for him to research this it would probably be a couple hours time. Jenny asked if Council was going to authorize that expense for C.T. to do the research.

Motion to allow C.T. to investigate this water line and cap the cost at two hours made by L. Schilling with a second from R. Hawkins. B. Prescott abstained, all other ayes on vote.

Bill Wagner on Fernway asked if this line was to go under the driveway. Rich said the proposed line was on the north side of the driveway to run from school property east to 44, not under the driveway. Whatever damage may be done due to construction, it would require restoration.

Rich lafelice for C.T. Construction wanted to report the recent discussion the last couple of weeks with the County regarding the pending application for their sanitary sewers to service the Aurora Meadows subdivision. It is approximately 80-85 homes. This would

mean additional customers to the Village, not necessarily additional tap-in fees because the County bought a certain capacity several years ago. The County is currently using about 35,000 gallons a day on average. They pre-purchased 75,000 gallons. They are asking for an additional 50,000 gallons for this project, which would exceed their original purchase. The agreement would then have to be amended and negotiate additional price. Rich is waiting to hear back from the County on their final capacity amount. If they exceed the 75,000 purchased, it opens the door to a new amendment to the purchase agreement. The Mayor asked if this happens, does that mean the Village can re-negotiate. Rich said absolutely.

Planning: Jim said the planning commission is tomorrow night at 7:00 p.m. here. Last month he was asked to report for the Downtown Mantua Revitalization Committee since he is the representative of Council to that body. They sponsored the "Art on the Hill" last weekend; however, there are no financial results to report yet. The DMRC is a 501-C3 organization and Jim reminded everyone they would welcome any contributions.

Service: Linda announced the Service meetings are the first Tuesday of each month at 7:00 p.m. They have been looking at storm sewers with Brian Rogers, the Mayor and Roger. Linda plans to meet with Donna Hawkins this week on getting together a plan. She would also like to see behind the service garage cleaned up and the scrap removed. Linda asked for a copy of the Mayor's notes she made when looking over the storm sewer problems with Brian Rogers. Linda asked if the Mayor knew when Ed would be returning. Donna said she did speak with Ed; he is planning to come back but still needs a release. Linda felt there should be something in his file, some documentation explaining why he is out and for how long. Donna said she would check on that. Linda asked Jenny if she invoiced David Benjamin and if so, what she has heard. Jenny said yes, after the last meeting Jenny called him and he told her we would have a check in two weeks. After three weeks went by, she sent him another invoice, she has not heard back.

Parks: Marty received a call today that the plans for the Glacial Esker trail have been approved. In order to get the fees waived, it has to go before the Commissioners who meet tonight. Regarding the cemetery board, he has had some discussion with Michele who has provided him some information. Arrangements are being made with her and the board to meet and go over this information so it can be presented to Council for approval. Marty said last month that he would report on the fireboard. He is glad to say we now have a fire chief. At the last meeting, the board appointed Joe Stoneberg as fire chief.

Linda Schilling asked to go back to her, in the service garage, there are benches from Euclid Beach. She would like to have them sandblasted, painted, and put around the storefronts and the observation deck if this is okay with Council. Marty said we could bolt them down to the deck to keep them from being thrown into the river. Vandalism has been very bad this year in the park and on the trail. Linda is trying to get this done at no cost to the Village. The consensus of Council was that if it was at no cost to go ahead.

Finance: Ben said the budget is finished. We are broke and everybody knows it. He congratulated the Downtown Mantua Revitalization Committee for last Saturday, it was a nice event and he hopes they do it again.

BZA: Roger had nothing to report for the BZA or the Shade Tree committee.

Safety: Giles said the part-time people handled everything while the chief was on vacation.

Public: Linda Clark finally contacted ODOT regarding the turn lane in front of her house. In the April Council meeting, Ed Trego said ODOT came out and did an initial patch job and then reneged on any responsibility for it. A Bob Wynowski had emailed to Linda

correspondence letters starting back in August of 2005 sent to Mr. Trego. Linda read the first letter, which referenced movement in the pavement and stated the Village is responsible for repairing these areas under the top 2 inches of surface. Pavement cores were taken; one was shown to be unstable, the second disintegrated upon retrieval. Once these repairs were to be completed, the letter asked that the County be contacted. It was signed by Michael Rahach with ODOT. Mr. Trego responded in October 2005 and said he had contacted Northeast Ohio Trenching and C.T. Consultants who went out and did their own field investigation. The areas that ODOT tested were not the work areas that were under contract. It is Ed's belief that it is not the Village's responsibility but ODOT to repair. In August of 2008, Ed Trego contacted ODOT again and said while they were replacing the culvert by Hillcrest, to please address the problem in front of the High School because the road was crumbling. That same day ODOT responded back saying the same thing as in their letter from 2005. Linda felt that since Northeast Ohio Trenching had been contacted within one year of their work, shouldn't that be their responsibility to repair the road. C.T. could check the specs since they were the ones who originally reviewed the specifications for the work and would have had an inspector on-site at that time. Linda offered to give the Mayor copies of all her correspondence on the issue. Donna said she would appreciate those copies very much.

Rich lafelice wished to explain what had transpired. "First of all, they were two different projects. The Village is mostly in ease with a State Route running through it is eligible under the Municipal Road Resurfacing program to get funding through the State of Ohio to get resurface the road. It is usually an 80/20 with a local share from the Village. ODOT resurfaced, they typically mill or what they say they grind the asphalt and then they put back a layer of asphalt. Anything over and above that is the Village's responsibility. Being money as it was tight, at the time the Village could not afford, based upon the coring; we had recommended we needed to repair the road underneath before ODOT resurfaced or incorporated it into their contract because the sub-grade was poor. We could not afford it. The widening has nothing to do with the area; the widening was for the intersection that Northeast Ohio Trenching did, that is not the area of failure. The area of failure is where ODOT resurfaced, the Village could not afford to repair, and I had recommended we needed to undercut, that is why it is failing. It is not unusual. Again, you get the 80/20 and the Village at the time could not afford to do the undercut, repair the pavement underneath. It would cost thousands of dollars at the time and they elected to just allow them to mill."

Linda Schilling said to Rich, "Then what you are saying is that it is our problem".

Rich said, "Oh yes, it is yours".

Linda said, "Ed did tell us that right before his surgery".

Rich said, "The widening project is not that, it had nothing to do with the ODOT resurfacing because they identified".

Marty said, "It is not what he said. What you're saying is perfectly clear; it is not what Ed said when he was in front of Council."

Rich said, "He could have been the way he explained it. When ODOT comes through, it is up to the Village, the locals. What ODOT does is provide you the pavement quantities. I evaluated them and I said there are areas here we need to repair and one of them was there and we just couldn't afford it."

Mayor Hawkins requested what Rich lafelice just stated to have it in the minutes verbatim.

Rich asked Linda Clark if that answered her question. Linda said so in laymen's terms, the Village cut corners and that is why the road is failing.

Rich said he did not say that. "The Village could not afford beyond the 20 percent they already had to come up with in their budget for resurfacing 44 from the north limit to the south, which pretty much ate your budget that year, it's a big job."

Linda Clark asked Rich what he was saying about they undercut something.

Rich said, "When they resurfaced the road, before they do it, they examine the pavement condition and they gave me a report. It had to go through court, it identified soft sub-grade, and before we needed to just cut out areas, dig it up and put back compacted asphalt below there before they mill and grind. We could not afford to do it. Ed basically predicted the failure in certain locations and that is where it was soft from the beginning. Then we had the widening on top of that, separate then the ODOT project."

Linda Schilling asked Rich what he thought it would cost to fix that problem. Rich said he would probably have to go out and measure first. The Mayor said we did receive an estimate from Zuver Contracting of approximately \$2,000 just to go out and patch it. Rich commented that you could add at least another zero to that number to fix it. The bond has been released for the original contractor on the project.

Linda Clark had made a public records request from the Service Department back on June 10 to get copies of the classifications for our water and wastewater plants and who was listed as the operator in charge of each. The Tuesday of Council last month, she called Donna Maynard because she had not heard back from her. Linda said Donna told her she could not find anything. Linda questioned her on it and she did get back from her a copy of the classification of our water permit. Donna looked up our wastewater classification and could not find anything or even who the operator in charge is. Council should read her job description because she should be able to locate this information. Linda immediately called the EPA, who was able to email it to her within an hour. Linda asked Michele what the response time was for public records. Michele said she would have to look that up and get back to her. Linda asked her to please do that. According to Donna's job description, she is the assistant down there and should be able to locate things down there especially when she processes all EPA monthly and quarterly reports.

What Linda got from the EPA was that we are Class 1 water, Class 2 wastewater. She also found out from them that we have a minimum of 20 hours per week, five days a week that someone should be putting in at the wastewater plant. Linda obtained a copy of Paul Brannon's time records for the last month; he is not putting those hours in. Council should check to see with Paul being the operator to make sure this is being done. Ed was also supposed to file an "Operator of Record" report. So far, Linda has not been able to obtain a copy of this from the EPA. They also listed a name of an alternate person for Mr. Trego; however, that person did not know they had been listed as an alternate. She asked the Mayor as acting Village Administrator to see about addressing these issues. Donna replied that she thinks they have already been addressed.

Lastly, Linda Clark asked regarding ordinance 1986-30 when the position of Village Administrator was established. Whom would that person be accountable to and what his job description would be. It states in her papers that he would be accountable to the Mayor as well as Council. It also stated that he would have an established three member Village Administrator board composed of three electors of the Village to be appointed by the Mayor and Council. This was done when they first created the position but it does not state it would be for any given time period. Harry said it was a temporarily board established for a period of six months only. Linda Schilling asked her for copies of it all.

Patsi Gast representing the Mantua Village Community Action Group had three questions to ask from their July 9 meeting. First, they would like the status update of when they would see a comprehensive plan on the petition that was presented to Council with regard to the storm sewers. Linda Schilling said Donna and her will work on it possibly next week and ask C.T. to be in on it. Second, what is the status of the Village Administrators evaluation? Linda said they voted on the sheet to do it, they will meet next month. Third, where do we stand with regard to the Franklin/Regan Street storm sewer project?

Jenny said it was in C.T.'s report that it expired on June 30, 2009. Patsi asked what happens to the money set aside for that project. Jim said it was all in kind, there was no money per say.

John Clark was glad that Marty was on the fireboard. He would like to see Council include on their agenda, any correspondence such as the school board letter the Mayor received from March 18. He felt anything Council gets that has to do with Village business that it is brought up at Council for public knowledge.

Chris Zimmerman thought the school letter had been brought up before and read at an earlier meeting, it was not a surprise to her. In addition, Ed had mentioned possible debt forgiveness for the water and sewer debt. She is curious as to what happened with that, is it still being looked into. Last time, Ben, Michele and Jenny said they would look into it. Mayor Hawkins thanked Chris for her comments and said Ed had contacted the EPA and had put together a spreadsheet on the loss of Eaton and downturn of Mantaline and its impact to the Village. A letter was generated and a response has been received. The EPA said they could not do debt forgiveness because it was taxpayers' money that they were loaning us in the first place. They could also not give us an interest rate reduction because we were already at a .68 percent interest rate. Debt deferment they could do. Normally a 20-year loan, our payoff date on this is 2023; they would rewrite it to be due by 2024. Donna spoke to the chief loan officer for OWDA, Sue Farmer, and received a response from her. An interest only payment would need to be paid and due January 2010 of \$28,000. This would defer our regular payment of \$290,000 and keep it in our funds. Donna looked back in some minutes to see why we would even consider doing this. Going through some finance minutes, from January 2009, in them Jenny had said the water and sewer funds would go into the negative. She stated tonight that they already have, \$26,000 had to be pulled out of the General Fund. In July 2008 finance minutes, Ben had said by always taking from the General Fund is how we got into this situation. Jim had also said Ed would almost have to do a layoff; we are broke if the General Fund is broke. Jenny had summed it up by saying, we are going to have to raise water and sewer rates by 10 percent. These are reasons we really need to think about this. Donna checked with Gary Alger, State Auditor, who thought it was a good idea but we should check with Nita Hendricks with Local Government Services because we are under fiscal watch. Nita said we could go ahead and do it; however, she would really stipulate how we could spend the money. In the December 2008 finance minutes, and the Mayor only wanted to bring this up because she felt we are heading for another December if we are already having to pull from the General Fund, Ben stated we will need to raise sewer rates about 16 percent. Water would be all right for next year, sewer would be short about \$88,000. In May of 2009, Jenny stated Council and our Finance Committee will need to figure out what to do about our sewer plant. It costs the Village more than it makes, we would be lucky to make our semi-annual payment due in June. Some options Jenny was able to come up with were raise the rates, have the General Fund could pay the shortage, however, eventually the General Fund would be operating in the negative and we would soon be in fiscal emergency, or borrow money every six months from Middlefield Bank eventually having 18 loans. Donna asked Council to look into this option for deferment.

Phil Sage asked whether the Village could break the contract with the County given the circumstances of the Village and re-enter into negotiations with them on wastewater.

Jenny wanted to clarify that Ben and she did not say they wanted to raise rates as was read by the Mayor, it was the percentage they estimated we would need to raise them in order to cover our debt, we wanted to look at cutting costs wherever possible.

Ben added it was \$44,000 out of the General Fund, \$16,000 for water, \$28,000 for sewer.

Jenny also said by deferring the payment, we are not fixing the problem; we would still come up short every month. We need to find some other solution to it.

Randy Weaver asked if anyone has looked into having the County or a private lab run the water plant. Ben said we have talked about it, however, it would have to go out to bid.

Wesley Hawkins asked why a meeting was not called to discuss the issue and why some on Council were not aware of this. Ben asked Wesley what he was talking about. Wesley said the emergency meeting to discuss the deferment.

The Mayor said she had tried calling an emergency meeting. Michele and Jenny talked it over and determined there might not be enough answers to the questions. Donna did however get those answers in time for a meeting. Then there was not enough money in the General Fund to call a meeting because it would cost \$275.00. Wesley said then they made the legislative decision by not having a meeting. Donna said she was asked to email Jim Rogers, then Michele and Jenny, which she did do. Jenny said the President of Finance and Council was involved as well. Michele also added that part of the subject of that meeting was to review the new exhibit "A" which did not come until last week. The Mayor said honestly, OWDA said there would be no late fees charged, so it would not have mattered if we did not have exhibit "A" right then, we still could have not made the payment.

Dave Sluka asked with our sewer rates being so high, where are our financial woes coming from. Giles said Eaton left; \$300,000 is gone, a lack of industry in our Village.

Lauren Weaver asked with the auditor's being here now, are we at fiscal emergency. Ben said no, we are under fiscal watch. Lauren felt we cannot move forward and are just stuck. Why do we not have a task force looking at this? Ben said the Finance Committee tries to address these problems regularly at their meeting on Saturday morning before Council. The Mayor said she just presented something to Council to look at. Donna said we were in fiscal emergency. Council disagreed with that statement. Donna said yes we fell into fiscal emergency, the state auditor's report showed it in December of 2007. We were able to come out of it in July 2008. Jim said, as it is we are in fiscal watch.

Cindy Toth asked what the next step was for Council to move forward on the deferment. Donna said they would need to make a motion to do it.

A motion to defer the payment was made by R. Hawkins. Jenny said we already made the payment. Donna said OWDA told her they would refund the money back. Linda Schilling said she was one on Council that did not receive all the information and before we vote on anything, she wants to see that information. There was more discussion on where that money, if deferred, could be spent and on what projects.

Bill Zoller asked on the funds that are dropping, are any of them funds that pay for the Mayor's hospitalization. Donna said these monies would stay in water and sewer funds.

Jenny said we did spend over \$40,000 to pay past bills, a large portion were water and sewer bills, which we would normally not be doing. The next six months we will not have those. Ben said funds will level off as receipts come in.

Patsi Gast felt we have to get that Eaton building filled with businesses; otherwise, this Village will never move forward. We cannot continue to keep paying more in rates.

Motion to adjourn the meeting at 9:55 p.m. made by M. Hura with a second from L. Schilling. All ayes on vote.

Mayor Donna Hawkins

Clerk-Treasurer Jenny August