

REGULAR COUNCIL MEETING
MONDAY, NOVEMBER 2, 2015 - 7:30 PM
EXECUTIVE SESSION IMMEDIATELY FOLLOWING

President Paul Hach called the regular meeting to order. City Council convened in a regular meeting in Council Chambers, with the following in attendance: Paul Hach, Lori DiNallo, Katie Jenkins, Andrew Flock, Mike DeLeone, Jim Fodor, Tom Fitzgerald, Assistant City Manager Doug Lewis, Law Director Joseph Gurley, Fire Chief Mark Mlachak, Police Chief Anthony Powalie, Finance Director Andy Unetic, Water Superintendent George Ginnis, Public Works Director Brian Belfiore, Water Pollution Control Plant Superintendent Randy Bruback, Electric Superintendent Jeff McHugh, Economic Development Director Cathy Bieterman, City Planner Lynn White, City Engineer Leanne Exum, Parks and Recreation Director Michelle LaPuma and Clerk of Council, Tara Diehl.

President Hach requested visitors please turn off their cell phones and other electronic devices. Councilman Mike DeLeone gave the invocation. The Pledge of Allegiance was recited.

Motion by Mrs. Jenkins, seconded by Mr. Fitzgerald to approve the meeting minutes for August 17, 2015 and October 5, 2015 as submitted. All members answered "Yes". Motion carried.

Mr. Hach stated we will now recognize Visitors and to please raise your hand if you wish to speak. When called upon, please use the podium, clearly state your name and address into the microphone, and limit your comments to 3 minutes." Any dialogue must be conducted through me as President of Council, although your comments or questions can be addressed to Council, the Administration, or both. Three people wished to speak.

Mr. Angelo Cimaglio of 477 Owego Street handed the Clerk of Council an article to share with Council. (*See Attachment #1, page 1*). He asked about the plat approval for Heisley Park at the last meeting and buffering. Mr. Lewis stated the ownership of the park will be by the Heisley Park HOA, not the City. Mr. DeLeone reminded Mr. Cimaglio this was a preliminary plat and not a final plat. Mr. Lewis informed Mr. Cimaglio that final plat still needs approval.

Mr. Tony Torre of 148 Sanford Street expressed his opinion on property maintenance rules for homeowners vs. the railroad and highway department. He feels there are 2 sets of rules.

Mr. Art Shamakian of the Steele Mansion informed Council that Fox 8 News would be broadcasting from the mansion at 6:55 am tomorrow morning.

Moving on to Legislation, President Hach stated if visitors wish to comment on Legislation, they must request to do so at this time. Those making such requests will then be called upon after the reading. Any dialogue must be conducted through him as President of Council, although your comments or questions can be addressed to Council, the Administration, or both. When called upon, please use the podium, remember to clearly state your name and address into the microphone, and limit your comments to 3 minutes. One person wished to speak on Item #1 and #3.

**ORDINANCE: ORDINANCE AMENDING SECTION 1375.07 – EXEMPTIONS OF THE
PAINESVILLE CODE OF 1998, AND DECLARING AN EMERGENCY**

was given second reading.

Mr. Lewis who explained the Lake County Land Reutilization Corporation (LCLRC) has been very active in the City of Painesville and has worked with the City to demolish sixteen (16) properties to date with four (4) more scheduled to be demolished late this year or early next year. In addition, LCLRC contributed \$254,774 to the demolition of the hotel. They are also working with WRCDC to rehabilitate properties in the City, specifically 668 North St. Clair Street. Executive Director John Rogers has asked the City consider exempting LCLRC from vacant property registration and fees. Staff is recommending approval of legislation that would exempt any building or structure that is acquired by the LCLRC from vacant property registration and fees. We are requesting that it be passed on first reading in order allow the utilities to be turned on to facilitate the rehabilitation of the property listed above.

The Ordinance was left on second reading.

**ORDINANCE: AN ORDINANCE AMENDING SECTION 191 OF THE PAINESVILLE
CODE OF 1998 RELATING TO INCOME TAX, AND DECLARING AN EMERGENCY**

was given first reading.

Mr. Unetic explained House Bill 5, which deals with income tax collections, was adopted by the Ohio House and Senate at the end of 2014 and goes into effect January 1, 2016. In order for the City to be in compliance with HB5, the City has to amend the City Code dealing with income taxes and it has to be approved no later than December 7, 2015. If this ordinance is not approved then the City will be in violation of HB5 and it can negatively affect the City's income tax collections. Also with this are two attachments that explain some of the differences with this ordinance and why the City should also include the part about the landlords in this ordinance as well.

Mr. Fitzgerald asked if there will be a form available on-line on our website for landlords to fill out. Mr. Fodor asked when this becomes effective; Mr. Unetic stated January 1st. Mrs. Jenkins asked what happens if there is no disclosure of tenants information by landlords. Mr. Unetic stated there is no liability to the City, but RITA could go after the renters. We will run a campaign to make sure landlords are aware of the changes by RITA. Please send him specific questions and he will have the law director and RITA provide answers. Mrs. DiNallo asked where the money goes and if it comes back to the City and clarified this has been drafted and approved by RITA. Mr. Unetic confirmed that RITA's extensive work has been reviewed by our law director and himself. Mr. Flock would like us to hold a seminar for rental owners with a spokesperson from RITA and possibly hold it at Lake Erie College. Mr. Unetic will check with RITA.

The Ordinance was left on first reading.

Under Unfinished Business were two items: Prairie State Power Plant and Sidewalk Replacement Program.

Mr. Flock stated his Town Hall Meeting at Elm Street Elementary on Friday, October 29th at 7:00 pm with Ms. Sandy Buchanan as the guest speaker regarding AMP Ohio was well attended. He read from (*See Attachment #1*).

Mrs. DiNallo had nothing further on the Sidewalk Replacement program and looks forward to what Administration has to say in January.

There was no presentation to Council.

Mr. Gurley did not have an Administrative Report.

Mr. Lewis gave an Administrative Report. He discussed leaf pickup and addressed Mr. Torre's concerns with OCOT and the brush on Route 2. According to ODOT, the branches are not impacting the interstate or the fence. Mr. Flock referred to the immense overgrowth in that area and would personally show it to an ODOT representative. MR. Fodor asked about 12" overgrowth citations, and wasn't designed to be a wooded area. Mr. Lewis stated forested areas are not enforced. Mr. Fodor referred to the train trestle on Richmond Street and in the past we tried to get the courts involved. Mr. DeLeone felt that going to court is jumping the gun and possibly a supervisor could be spoken with. Mr. Gurley reminded Council there has been continual battles over the years. Our Ordinances may be enforceable against the railroad and the state. We've had limited success in the past and feels Council should gather a list of issues and pick-up the fight again. Mr. Hach reminded Council that in the past, the railroad wanted the City to pay for signage, repairs, maintenance, etc.

Under Clerk of Council Correspondences, Ms. Diehl stated the next regular Council meeting will be held on Monday, November 16, 2015 at 7:30 pm; Fall Leaf pickup continues through December 4, 2015; City offices closed, Wednesday, November 11, 2015 in observance of Veteran's Day; DPO's Holiday Open House is Tuesday, November 17, 2015 from 4:30 – 8:00 pm at participating downtown businesses; Tree Lighting ceremony will be at 5:00 pm; Painesville Police Dept. "Stuff the Bus Event" with the Sub Zero Mission is Saturday November 21, 2015 from 11am – 2pm. She also explained there was a phone number error in the Speaking of Painesville for the article on Terkk's Computers and the correct number is 440-350-1903.

Closing Comments.

Mrs. Jenkins, Mr. Fodor and Mr. Flock did not have comments.

Mr. DeLeone praised Mr. Terkk's wonderful computer classes, told residents about "Project Greenlight" for Veteran's Day, and reminded everyone to get out and vote regardless of their opinion.

Mrs. DiNallo reminded residents to clear the leaves from the sewer grates and wished all the candidates good luck at the polls tomorrow.

Mr. Fitzgerald asked everyone to get out and vote on the very important state issues.

Mr. Hach reiterated everyone's comments and looks forward to working with at least one new person to be elected to Council.

At 8:02 p.m., hearing no further business, President Hach asked for a motion to convene to Executive Session. Mrs. Jenkins made a Motion to Adjourn to Executive Session in accordance with the City's Charter Article II, Section 6, Item 1: To consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of an employee or official of the city, seconded by Mr. Fitzgerald.

On roll call, Mr. Flock answered "No", Mr. Fitzgerald, Mrs. DiNallo, Mrs. Jenkins, Mr. DeLeone, and Mr. Hach answered "Yes". Motion carried.

At 8:49 pm, President Hach asked for a Motion to Adjourn from Executive Session and reconvene the Regular meeting. Motion to Adjourn from Executive Session by Mr. DeLeone, seconded by Mrs. Jenkins.

On roll call, Mr. Fitzgerald, Mrs. DiNallo, Mrs. Jenkins, Mr. DeLeone, Mr. Flock, and Mr. Hach answered, "Yes". Motion carried.

Motion to Adjourn made by Mr. DeLeone seconded by Mr. Fodor. All members answered "yes". Motion carried. The meeting was adjourned at 8:50 p.m.

Tara Diehl
Clerk of Council

Paul W. Hach II
President of Council

Friday, October 23, 2015 6:54 PM ET  Exclusive

Illinois consumers again file complaint against Prairie State coal plant

By Matthew Bandyk

The residents of an Illinois town who are angry about higher electric bills and sales taxes stemming from contracts for power generated by the coal-fired Prairie State Energy Campus are suing again in federal district court after their first suit was rejected.

The lawsuit, filed Oct. 23, alleges that Prairie State co-owner Indiana Municipal Power Agency and its consultants misled the city of Batavia, Ill., into agreeing to a long-term power contract with Prairie State that has now locked the city into electricity rates that were at one point more than double what was initially advertised. Batavia raised its sales tax from 7.5% to 8% to cover its higher costs. The suit is an amended version of a complaint brought by several residents of Batavia in August 2014. It contains some new claims, like an accusation that in their pitch to the city about Prairie State the consultants left out details about problems the plant would face, such as "the poor quality of the high sulfur, high ash, unwashed coal" that "would lead to shutdowns and reduced operational efficiency," the complaint said.

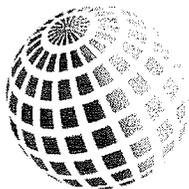
In August, a judge for the U.S. District Court for the Northern District of Illinois, Eastern Division, threw out the original lawsuit, saying that while the deal with Prairie State did appear to be "ill-advised," there was no legal basis for the citizens to claim themselves as the victims, considering that it was the city government, and not the residents, who agreed to the deal.

The 1,628-MW Prairie State plant, one of the last conventional coal-fired plants built in the U.S., experienced a budget overrun of about \$2 billion as it was built from 2007 to 2013. Batavia put \$240 million toward the construction of Prairie State, according to a Sept. 22 report from the Chicago *Daily Herald*.

Another lawsuit against Prairie State could be in the works. In 2014 the Batavia City Council asked the Illinois Attorney General's Office to investigate the contracts. More recently, the council has looked at retaining Michael Childress, the same attorney who is representing the Batavia citizens in their suit, although Childress noted in an email that he has not been officially hired yet.

The council is trying to determine the best course of legal action, which could include trying to end the contract with Prairie State early, according to council member Martin Callahan. "I think everything is up for discussion at this point," Callahan said in an interview.

Batavia buys power from Prairie State through the Northern Illinois Municipal Power Agency, another Prairie State co-owner, and many other municipalities across the Midwest have signed contracts with the plant through agencies like American Municipal Power Inc. AMP is the largest owner of Prairie State with a 23.26% share, according to SNL Energy data.



PRAIRIE STATE UPDATE

October 2015

Overall, the plant is not operating as had been planned. They are struggling with operational problems related to very bad coal (high ash, high chlorine, high sulfur) that are creating serious wear on the machinery and forcing shut downs.

Management is trying to fix the problems and is reportedly considering investing in a coal preparation plant. Most coal mines wash their coal. PSEC doesn't have a water source for this presently and would likely need to build a dry coal prep plant that creates heavy dust and particulate matter. This issue was raised by Sierra Club back in 2004 when they distributed research and testimony put together by the AFL-CIO and UMWA. Peabody argued then that a coal prep plant was unnecessary. While under discussion, it is currently not in the capital budget.

Here are the plant's capacity factors for 2015. The plant operated well through the summer, but some problems seem to have reemerged in early October.

Jan	91%	
Feb	70%	
Mar	55%	
Apr	52%	
May	58%	
Jun	95%	
Jul	92%	
Aug	92%	YTD 75%
Sep	early estimates around 86%	
Oct	operating difficulties forcing both units off line mid month	

RATE LEVELIZATION

The current levelized rate for AMP communities is about \$62/ month (plus transmission and congestion costs). Market price of power averages more like \$40/month. Painesville has a take or pay contract for about 10 MW of power from Prairie State.

AMP's combined hydro plants are due to come on line beginning in fourth quarter 2015. The levelized price has been reported at \$105/month. Painesville has a take or pay contract for approximately 5 megawatts of the hydro power.