

# RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

www.ptpettibone.com FORM NO. 10148

In Council Chambers

Held 6131 Taylorsville Road August 9, 20 21

1. The Huber Heights City Council met in a Regular Session on August 9, 2021. Mayor Jeff Gore called the meeting to order at 7:00 p.m.
2. The Invocation was given by Pastor Randy Griffith of the Free Methodist Church at 6875 Old Troy Pike, Huber Heights, Ohio.
3. **Pledge of Allegiance**
4. **Roll Call**

Councilmembers present for this meeting were Richard Shaw, Kathleen Baker, Mark Campbell, Nancy Byrge, Glenn Otto, Ed Lyons, Andy Hill, Don Webb, and Mayor Jeff Gore.

**5. Approval of Minutes**

- A. City Council Meeting Minutes – July 26, 2021

**6. Special Presentations/Announcements**

There were no Special Presentations or Announcements this evening.

**7. Citizens Comments**

Mrs. Cindy Smith read a statement regarding citizens requesting houses in Section 9 of The Oaks PUD not be issued a final permit by the City until they are compliant with all City codes and ordinances. She discussed a house at 3013 Burr Oak which she states is not in conformance with Ordinance No. 2003-O-1405 due to it being completely covered in Hardie Board which was not approved by the Planning Commission for use in The Oaks PUD. She said that the house does not have brick or stone on the front of the house and fails to meet the requirements. She asked if this house has received a final permit?

Mr. Scott Falkowski said no houses in Section 9 have received a final permit.

Mrs. Smith asked since Hardie Board was not preapproved as a masonry product by the Planning Commission in advance, why is it allowed on the house on 3013 Burr Oak.

Mayor Jeff Gore said Council needs to talk with Mr. Falkowski and City Staff and determine if there was no advance notice, was the interpretation of that ordinance by City Staff and the Planning Commission wrong or is it an actual violation of the ordinance. He said that discussion will be moved to the next Council Work Session and he would hope the recommendation would be that Council ask City Staff to revisit that ordinance and determine the intent of that ordinance. He said it would then come down to Council making a decision to not issue the permit or to go back and require the 25 percent brick or stone on the house. He said he is surprised the builder chose to use 100 percent Hardie Board. He said if this is a misinterpretation, Council may revisit and pass legislation to rewrite that ordinance to make it clear and the builder can be forced to make the change. He said no permits will be issued until City Staff and Council get through this process. He said he thinks the intent of the ordinance was not to allow what is there currently.

Mrs. Byrge said Council may want to consider having a special meeting because she saw a sold sign on a house which means the buyer has already decided what kind of materials will be used. She said these materials may be a duplication of what is on the other house.

Mr. Falkowski said tomorrow morning he can have the information on what materials were presented regarding the sold houses. He said after that, he needs to have more discussion with the Law Director regarding the language in a PUD regarding the masonry requirements.



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Mrs. Byrge said the Planning Commission decision record needs to be reviewed to see what was approved.

Mayor Gore said if Mr. Falkowski finds out another house has been sold that is the same with no stone, then it would be appropriate to meet sooner rather than waiting until next Tuesday's Council Work Session. He asked Mr. Falkowski to let Council know what he finds out.

Mr. Shaw asked Mr. Gerald McDonald if this builder is moving forward against the perceived ordinance and building materials, what type of actions does Council have to advise the builder to stop any and all work.

Mr. McDonald said Council does not have the ability to stop a construction project, that is a City Staff function. He said if the builder is in violation, City Staff could potentially issue a stop work order. He explained the process involved.

Mr. Shaw asked Mr. McDonald to revert back to a 2007 ordinance and 2011 information from the Planning Commission with regard to masonry materials and provide a timeline on that information for the next Council Work Session.

Mr. Steven Rybitski said he lives on White Oak Way. He said between Oakridge Drive and Chambersburg Road there is a swath of land of trees. He said back in April, 2021 and before that the owner took down a lot of the woods, he said he asked Mr. Lyons to ask Mr. Falkowski what the plan is for that piece of land as there is no entry or exit to that land. He said Mr. Lyons said some development was planned, but a developer had not been chosen yet. He asked if it is still planned for development, what would be the entry way to this area? He said if it is not up for development, who took the wood out and removed the yellow pole from the ground? He asked who is responsible for replacing this pole and who is responsible for maintaining the pathway and the overgrowth? He said some of the trees that were cut down are falling over the pathway.

Mr. Falkowski said he does not know anything about the yellow pole, and he will need to look into that matter. He said there is no developer, but the land is approved through the original ordinance for estate lots. He said there is a 30' wide access point that goes from The Oaks to Chambersburg Road that a driveway could go on, and that was the original plan. He said if there is a plan for development, it will come back through the Planning Commission. He said the easement that goes through there and that path was approved through Planning Commission and the City Council as part of the HOA, and it is the HOA's responsibility from The Oaks out to Chambersburg Road. He said the HOA has been put under violation for the clearing of that area.

Mr. Rybitski asked even though the owner cut down the trees, it is the HOA's responsibility to clean that up?

Mr. Falkowski said it is the HOA's responsibility to keep the path clear.

Matthew Ruchti said he lives on Jonetta Street and there is a problem with a lift station installed in 2005. He said he has been working on the lift station between three residents since 2014 and cannot come up with an agreement. He said he was told by the City there is a contract in place, then he was told there is a resolution in place, then he was advised to attend this meeting to see if City Council can address this matter at the next Council Work Session. He said the lift station was built on a property line so there is no ownership. He said it is in his yard. He said the Montgomery County Health Department told him he is not allowed to reactivate the septic tank in his yard once he is connected to City sewer. He said Korrekt Plumbing was informed by the City Engineer that the sewer system is maxed out and he would have to be in agreement with a neighbor to tear up their yard and tap into their sewer to access the City sewer line through another neighbor's sewer system. He said since the lift station is 50 percent in his yard, if it overflows again, which has happened twice in eight years, all of the fines from the Health Department and the



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EPA falls on his responsibility since it is in his yard. He asked if there is any way to bypass this contract that states this lift station will remain in private hands. He said it was addressed by the Laroës, the property owners who owned the plot at the end of Jonetta Street. He said the Laroës have sold off all four plots, but they still hold this contract with the City. He said he talked to the other residents and one individual put the electric bill in his name, said the others owe one-third of the bill, and will not show evidence of what he has paid. He said one pump is shot and the other pump is running continuously. He said he wants to find out what to do to have the City take over the lift station and maintain it or take over the management of it and add the maintenance, electric bill, and upkeep to either the property taxes or as surcharges to the water and waste bill. He asked for help in getting this matter out of the control of one individual and to work this issue out peacefully. He said the City Engineer said unless the lift station services 50 houses, it will remain private. He said that is the City Engineer's philosophy, and he cannot change it.

Mayor Gore said he has seen some of the emails between the City Manager and the City Engineer. He asked Mr. Falkowski and Mr. McDonald to review the contract and see what can be done. He said he needs information from the Law Director and then Council can move from there.

Mr. McDonald said the contract is recorded with Montgomery County.

Mr. Lyons asked about the exact location of the lift station and he had Mr. Ruchti clarify his statements regarding the lift station and the sewer system. He asked Mr. Falkowski, if by the time of the next Council Work Session, will he know what property this lift station falls on?

Mr. Falkowski said he would review the location. He said one of the recommendations was each individual house could have its own grinder pump and pump down the street in the right of way to connect into the sewer. He said he would check with Mr. Bergman about the system being maxed out. He said there is a way each individual could pump to the sanitary sewer, but at a cost.

Mr. Lyons confirmed this issue would be discussed at the next Council Work Session and that City Staff will come prepared at that time.

Mr. Jerry Vincent said he lives on Blackshear Drive and there are too many hit and run accidents on the street. He said in 55 years there have been 10 to 12 hit and run accidents. He said this month he had a mirror knocked off a truck and his neighbor had a van totaled. He described the history of accidents. He said it is too dangerous for kids. He said the options the residents have been given are parking on one side of the street or lowering the speed limit on the street.

Mayor Gore said he understands speeding is an issue in the City. He discussed the Town Hall Meeting on traffic issues and the latest Council Work Session. He said the request is for more police officers to establish a Traffic Control Unit. He said regarding speed bumps, City Staff's recommendation has been not to put in speed bumps. He said if Council wants to have that discussion, it can. He said the City is doing what it can do from a Police Division standpoint. He said one cannot predict when an accident will happen and there is no legislation or laws to keep people from being jerks. He said all the police can do is be reactive. He said people are installing security cameras, and if Mr. Vincent had security cameras to see who hit something, at least there would be a vehicle description, license number, etc. He said his hope is when the City has more officers, the Police Division can draw up plans on where to patrol based on feedback. He asked Mr. Falkowski to add Blackshear Drive to the patrol list and inform the Police Chief there is an issue on Blackshear drive.

Mr. Vincent said he would have his neighbors sign a petition for a speed bump.



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Ms. Baker said she is Mr. Vincent's ward representative on Council. She instructed him to make sure there is a report filed for any accident so there is a paper trail, and she said security cameras would help.

Mr. Shaw said he agrees with Mr. Vincent that some of the items on the speed bump paperwork are outdated. He said he would like to see the data of these incidents over the past five years to determine if there is a common denominator and if there is a lighting problem. He said he trusts the City Manager will list the issues out and find out how the City can find quick solutions to each one of these issues. He said the City needs to be more proactive than reactive in that area.

Ms. Anna Marie Honious said she is 15 years old and she lives on Arrowview Drive. She said she likes the idea of a mountain bike park in her neighborhood for a multitude of reasons. She said it would be a great place for families to gather and for families from the neighborhood to spend quality time together in an outside safe environment. She said this area would be a good way for children to get outside and exercise safely in the neighborhood. She said it would be convenient for access because there are so many kids in the neighborhood who could walk or bike to the trails who are not able to go by car. She said a lot of the trails require a car to get to the trails because the trails are not in a convenient area. She said it brings the possibility for citizens within the community to be more connected. She said if there was a connection between this mountain bike path and the bike paths within the City, then people throughout the City could take the bike path to utilize this park. She said she does a lot of bike riding and she always has to have a parent drive her to the bike path because all of the street routes have a lot of traffic and it would not be safe to use those roads to access the bike trails. She said there is no easy route to access the paths by bike. She said she lives between a blind turn and a hill, and riding bikes in the street is dangerous because there is low visibility. She said having a place where kids can safely bike and enjoy the outdoors in the summer would be an amazing thing to have.

Mayor Gore said the Parks and Recreation Department will go back to the community to talk about what should go there. He said the issue of the bike park was tabled indefinitely. He said he empathizes with her, and he said many like the idea of trails there. He recapped past discussions with residents and neighbors. He said it is not an easy issue. He said he appreciates her courage for coming and speaking to Council tonight. He said the Parks and Recreation Department will do outreach in the community and bring some recommendations back to Council.

Mr. Otto encouraged Ms. Honious to be part of the community meetings and said he knows something can be done with the park.

Ms. Honious said they have tried to utilize the park by throwing frisbee and walking, but it is really overgrown and sometimes not mowed. She said even if it is not a mountain bike park, she would like the park to be something useful because it has been vacant so long.

Mr. Shaw said he worked diligently to obtain that land from the schools. He said a park is very much needed in that area. He said his colleagues mentioned because not a lot of youth stood up during the last discussion, there was not a lot of interest perceived. He asked Ms. Honious to encourage the youth in that area to send emails to Council and encourage their parents to bring them to City Hall to speak.

Ms. Honious spoke about the residents' concerns about traffic and crime in that area and expressed her thoughts about those issues. She spoke about a small parking area and said she wants to work with the people living there as it would be beneficial to have something in that area.

Mr. Tim Vanderhorst asked if the discussion about Dial Park can be reopened. He said compromise is not an easy thing and he remembers hearing the Mayor say this matter could go to ten or twelve readings if needed to get it passed. He said he was



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disappointed to hear this legislation was tabled. He suggested maybe a gravel parking lot be installed as it is less permanent, and it could be tried for a year and bring everybody back to see if what residents are concerned about really came about and if people are more comfortable with it.

Mayor Gore said Council's expectations are for the Parks and Recreation Board to meet with people in the community and come back with recommendations. He said at that time anyone on Council could make the recommendation to reopen the Dial Park Improvement discussion. He said at that time, the bike park could come back up.

Mr. Otto confirmed that the bicycle amenities at Dial Park were tabled but anything else can be discussed.

Mayor Gore said anything other than the bike amenities is not off the table and can be discussed.

## 8. Citizens Registered to Speak on Agenda Items

There were no Citizens Registered to Speak on Agenda Items this evening.

## 9. City Manager Report

Interim City Manager Scott Falkowski said the Bellefontaine Road Widening and Culvert Project south of Chambersburg Road is very close to completion. He said the final asphalt, cleanup, and guardrails should be finished by the end of next week and the road open. He said the ODOT project at the end of Chambersburg Road at State Route 4 is ahead of schedule. He said depending on whether paving will be done this week depending on weather, Chambersburg Road across State Route 4 may be open by Friday. He said the ramps should be open within two weeks. He said the Water Main Lining Project that is ongoing has about three more weeks left. He said he has heard things from a couple of Councilmembers and residents about things they have seen at some City facilities. He said the City is going through an asset review. He said for the fall at the Kroger Aquatic Center, there will be painting, updates to the slide, and the concrete will be evaluated. He said at the Rose Music Center, the highway sign is faded; and it looks like that sign can be repainted and there are some cracks in the brick work. He gave an update on the trash hauling services and he said there have been a lot of calls and concerns regarding the customer service with Republic Services. He said he has been back and forth quite a bit today trying to make sure everyone at Republic Services has the correct information. He said the Republic Services Staff has cheat sheets and he is hoping everything will get better over the next week or so. He asked the residents to continue to let City Staff know if they have any issues. He said in the next week, Republic Services will be providing a letter to residents and he will post the letter also on the City's website.

Mrs. Byrge asked Mr. Falkowski if the City has issued a Request For Proposals (RFP) to get the sidewalk completed from The Oaks entrance up to the property line south on Bellefontaine Road.

Mr. Falkowski said an RFP has not been issued as he mentioned the City wanted to link that work up with the development project in that area. He said the developer for that project has not submitted anything going forward. He said that is what the City is waiting on. He said if the City wants to move forward with just that piece of sidewalk that comes to another dead end, it can, but he wanted to have that work done at the same time and try to save some costs on contractors.

Mrs. Byrge said that development could take forever and personally she would like to see that sidewalk extended out as far as possible to facilitate people out walking.



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Mr. Falkowski said he will try to get an update on that development project, and he will get with the City Engineer on what it would take to get that sidewalk design finalized and moved forward.

Mrs. Byrge asked if there is any possibility of getting a crosswalk over to Cottonwood Court.

Mr. Falkowski said that matter is being looked at now.

Mayor Gore asked if legislation exists to install the sidewalk or does Council need to take any action to get that work done.

Mr. Falkowski said at the time to award a bid, Council will need to approve the contract award because it will be over the \$25,000 threshold.

Mr. Shaw said in reviewing this trash debacle that seems like it has been going on for a lifetime, the City keeps putting out information that the bills are going to be updated and customer service is going to be updated. He asked Mr. Falkowski if he could definitively tell Council today that in the next billing cycle these customer service and billing issues will be resolved, or what will it take?

Mr. Falkowski said he will keep on Republic Services every day until he hears it is taken care of. He said the contract has been signed, it is public record, and that information is 100 percent with Republic Services in its system.

Mr. Shaw said the new contract calls for a certain color lid on the trash can that no resident has, and he asked if that is another contract "oops" or is Republic Services going to do a can reassessment to change those cans out? He said he brought that issue up to the Law Director a couple of weeks ago and he wants to make sure if the City is going to be changing things in the contract that Council approved that the residents are fully aware. He said he is tired of getting past due calls and notices as well as the residents are when it comes to billing issues and customer service. He said the City has had this company take care of municipal trash for over five years, but in two and a half months it seems Republic Services has forgotten what it was doing, and he is perplexed on how that can be. He asked Mr. Falkowski to find out about the cans. He said he is being clear with the residents he speaks with that if they do not want to pay the astronomical fee for the cans over the next five years to call Republic Services to pick the cans up and get their own cans. He said another \$840,000 potentially over the next five years in Republic Services' hands is not what he voted on.

## 10. Pending Business

There was no Pending Business this evening.

## 11. New Business

### CITY COUNCIL

**Anthony Rodgers, Clerk of Council**

- A. A Motion To Appoint Pat Stephens To The Citizens Water And Sewer Advisory Board To A Term Ending January 1, 2024.

Clerk of Council Anthony Rodgers said the background check has been completed and he asked for Council's action on this appointment tonight. He said this appointment will fill one of three vacancies on this board, and he asked any residents looking to get involved to apply.

Mayor Gore said the Council Work Session recommendation was to adopt this item this evening.



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Mr. Otto moved to adopt; Mr. Hill seconded the motion. On a call of the vote, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 8-0.

## ADMINISTRATION

**Scott Falkowski, Interim City Manager**

- B. An Ordinance Providing For The Issuance And Sale Of Notes In The Maximum Principal Amount Of \$3,750,000, In Anticipation Of The Issuance Of Bonds, For The Purpose Of Paying The Costs Of Acquiring Approximately 51 Acres Of Real Property Near The Intersection Of Brandt Pike And Executive Boulevard And Providing For The Site Preparation Thereof, All In Support Of Economic Development And Job Creation Within The City.  
(first reading)

Mr. Falkowski said this ordinance is for the issuance of notes for one more year and the request is to waive the second reading as non-emergency legislation so this legislation can be in effect within thirty days.

Mayor Gore clarified these notes are not new notes, but replace notes already issued. He said the Council Work Session recommendation was to pass this item to a second reading, but Mr. Falkowski is now requesting to waive the second reading.

Mr. Webb made a motion to waive the second reading; Mrs. Byrge seconded the motion. On a call of the vote, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, and Ms. Baker voted yea; Mr. Shaw voted nay. The motion passes 7-1.

Mrs. Byrge made a motion to adopt; Mr. Hill seconded the motion. On a call of the vote, Mrs. Byrge, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, Ms. Baker, and Mr. Campbell voted yea; none voted nay. The motion passes 8-0.

- C. A Resolution Authorizing The Acceptance Of Federal Funding From The Shuttered Venue Operators Grant (SVOG) Program Established In Section 324 Of The Economic Aid Act, And Amended By The American Rescue Plan Act, Under Certain Terms And Conditions And Establishing The Shuttered Venue Operators Grant Fund.  
(first reading)

Mr. Falkowski said the City has been approved to receive just over \$3.8 million from the Shuttered Venue Operators Grant, and this legislation sets up the fund where that money goes. He said he did hear from the Finance Director on Friday that the money has been allocated to the City.

Mayor Gore said the Council Work Session recommendation was to adopt this item this evening.

Ms. Baker moved to adopt; Mrs. Byrge seconded the motion.

Mrs. Byrge asked if those funds could be used for the repainting of the Key-Ad sign since it advertises for the Rose Music Center.

Mr. Falkowski said he would look into that possibility.

Mr. Shaw asked Mr. Falkowski for a copy of the application that was submitted for the purpose of this grant and the amounts.

Mr. Falkowski said he would provide that information.

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On a call of the vote, Mr. Otto, Mr. Lyons, Mr. Hill, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; none voted nay. The motion passes 8-0.

## 12. City Official Reports and Comments

There were no City Official Reports and Comments this evening.

## 13. Executive Session

There was no need for an Executive Session this evening.

## 14. Adjournment

Mayor Gore adjourned the Regular Session City Council Meeting at 8:29 p.m.

Anthony C. Rutledge  
Clerk of Council

8-24-21  
Date

[Signature]  
Mayor

8/26/21  
Date