

RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES 2022-2023 FORM NO. 12-10
In Council Chambers

Held 6131 Taylorsville Road January 24, 22
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1. Call The Meeting To Order - Mayor Jeff Gore

The Huber Heights City Council met in a Regular Session on January 24, 2022. Mayor Jeff Gore called the meeting to order at 6:01 p.m.

2. Invocation - Pastor Louise Wilson Of The Lifepointe Church At 4555 Marshall Road, Kettering, Ohio

3. Flag Ceremony - Wayne High School Junior ROTC Honor Guard

4. Pledge Of Allegiance

5. Roll Call

Present: Richard Shaw, Kathleen Baker, Mark Campbell,
Nancy Byrge, Glenn Otto, Ed Lyons, Anita Kitchen,
Don Webb, Jeff Gore

6. Approval Of Minutes

- A. City Council Meeting Minutes - January 10, 2022

7. Special Presentations/Announcements

- A. Culture And Diversity Citizen Action Commission Indigenous Peoples Essay Contest Awards Presentation - Members Of The Culture And Diversity Citizen Action Commission And Mayor Jeff Gore

Clerk of Council Anthony Rodgers said this presentation was canceled as some of the participants were unable to be in attendance. He acknowledged the names of the winners of the Indigenous Peoples Essay Contest as follows:

First Place - (Grade 11 and 12): Manpreet Kaur, Student; Mrs. Jennifer Ostendorf, Teacher

First Place - (Grade 9 and 10): Malachi Robinson, Student;
Mrs. Ellyn Shellhaas-Cox, Teacher

Second Place - (Grade 9 and 10): Ashley Miller

Mr. Rodgers said each student will receive a check and a certificate from the Culture and Diversity Citizen Action Commission as winners of the essay contest.

8. Citizens Comments

Mayor Gore reminded the audience of the five-minute limit for Citizens Comments.

Mr. Ronald Deak said he read about the upcoming City Comprehensive Plan. He asked Council to get rid of the ambiguities. He asked Council to make sure that the zoning and the Comprehensive Plan agree and do not just say "single family unit" or "apartments". He said if there is to be deviation from the Comprehensive Plan, it should list the mitigating circumstances and he asked what will be added to make the transition

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from one zoning district to another. He said those things would alleviate what the City is going through now across the street from The Oaks. He said there is an awful lot of gray area.

Mr. Frank Wiley said on Saturday, February 5, 2022, at the Huber Heights Athletic Foundation, the Hart Scholarship Fish Fry will be held. He said advance tickets are \$15 and tickets are \$20 at the door. He said there will be raffles, a Monte Carlo, and great food. He said the hours are 6:00 p.m. to 11:00 p.m.

Mrs. Judy Blankenship said she is Vice President of the Huber Heights Senior Center and in her second term. She introduced Pat Lokai, a newly elected Senior Center Board Member. She said they are here because they are excited to hear the City is considering a new Senior Center. She said 600 people will be so happy. She said currently they cannot have many people in the current Senior Center, and they have to set up and tear down tables for every event. She encouraged Council to check out other senior centers in the area and see the amount of space these centers have to offer. She said she hopes the Senior Center Board Members are included in the discussions.

Mr. Joe Fiori said he and his wife and children have lived in Huber Heights for two and a half years. He asked how much jurisdiction the City has in implementing a mask mandate whether in government buildings, schools, or businesses.

Mayor Gore said from the City perspective, there is nothing that can be done for private businesses, as each business makes its own decisions. He said when the pandemic first started, a threat level for the spread of virus was established, and depending on the level, signs were at the entrances of the businesses indicating whether masks should be worn or recommended. He said there was never a mask mandate in City Hall. He said the City has no jurisdiction over the schools as these are separate entities. He said there is no legislation that the City Council can pass that could dictate to any private company; and any mandate would have to come from the state or federal level. He said once the state of emergency was lifted last year, all the COVID-19 policies the City had were lifted as well.

9. Citizens Registered to Speak on Agenda Items

Mr. Rodgers said there are three Citizens Registered To Speak on Item 11-B and three Citizens Registered To Speak on Item 12-D.

10. City Manager Report

Interim City Manager Bryan Chodkowski said Choice One was awarded both sections of the 2022 Water Main Replacement Project. He said Choice One has committed to the City's timeframe to have the full engineering work completed by the end of March 2021. He said the demolition on Lancer Court should be completed today, but there will be some site restoration that still needs to be done. He said on Brandt Pike, some demolition has been done on the north section of the CR Dayton property as well as some of the parking lot demolition. He said he wanted

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to make sure everyone was aware that the transaction with the Dayton Metro Library is complete for the sale of the land for the Huber Heights library at the corner of Premier Way and Brandt Pike, and the City received a \$1,000,000 check. He said he talked with LWC, the architectural firm that has been assisting City Staff with several components of the Marian Meadows redevelopment project. He said LWC will be engaging in a needs assessment for the City's administrative purposes, including tax and water services, as well as the Senior Center. He said LWC will be meeting with people in the next few weeks, will get a formal proposal put together shortly, and then LWC will be engaging with all of the relevant parties to determine all the wants and needs that are being considered to build a budget and a program for the project.

11. Pending Business

- A. An Ordinance Approving The Editing And Inclusion Of Certain Ordinances And/Or Resolutions As Parts Of The Various Component Codes Of The City Code Of Huber Heights, Ohio; Providing For The Adoption And Publication Of New Matter In The Updated And Revised City Code As Supplement 8; And Repealing Ordinances And Resolutions In Conflict Therewith.
(second reading)

Clerk of Council Anthony Rodgers said he had no additional comments.

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

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

- B. An Ordinance To Approve A Rezoning From Agricultural To Planned Residential And A Basic Development Plan For The Property Located On The East Side Of Bellefontaine Road And South Of Chambersburg Road And Further Identified As Parcel Number P70-03908-0126 On The Montgomery County Auditor's Map And Accepting The Recommendation Of The Planning Commission (Zoning Case 21-47).
(third reading)

Mr. Chodkowski said he had an opportunity to talk with the developer late last week regarding incorporating some of the additional comments and concepts that were presented to the Council from citizens' comments. He said based on those conversations, the developer has asked the Council to continue this item to another meeting so the developer can continue to review, evaluate, and explore the elements of the conversation to try to be more responsive to the needs and wants of the neighbors.

Mr. Ron Deak said he had a conversation with the developer in his kitchen. He said the developer could not answer the question about "why here?" He said the Comprehensive Plan specifies single detached units with medium to large lots. He said the zoning is three to five acres with agricultural use, so you can have animals. He said the developer provided the things that went into the calculation of the retention pond, but he could not provide the

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calculations. He said he was still waiting for the answers mentioned at the last meeting when Mr. Shaw asked Mr. Deak what he is still waiting on. He said engineers come up with a number that goes into a number to solve the problem. He said what the City Council has to do is take a Comprehensive Plan, follow that plan, and input the engineering portion and come up with a number. He said he asked the developer if there is anything else that could go on the property based on the cost and the developer said no. He said the Comprehensive Plan needs to have more definitive items instead of single-family detached homes. He said he is glad this item is going to another reading, but he is still waiting for his calculations.

Mrs. Cindy Smith said she has talked with the developer several times. She said the numbers do not work for the people who live there. She said at the Council Work Session, there was a question about the discharge of firearms. She said the Mayor had asked how many people around there have enough land that this would be a factor. She said she looked at the bordering properties, and she said 70 percent of the properties that border on that land are people allowed to discharge weapons. She said people can discharge weapons whenever they want, not just during hunting season. She said she had discussions with Mrs. Byrge regarding a berm for Plat 9 of The Oaks. She said under the ordinance, the developer who is also the developer who wants to build across the street, is required to put sidewalks, gutters, and berm along Fishburg Road. She said she wrote a letter to the City back in November, 2021 when the berm was being installed. She said the sidewalk is not there yet, but the street is there. She said the berm in several locations is below the level of the road and does nothing to block the housing. She said the builder was talking about putting a berm in that would block the new housing along Bellefontaine Road, but the berm the developer put in along Fishburg Road does not serve that purpose. She said this site is a horrible place to put 132 houses; it is an urban project in a rural area.

Ms. Tracy Harmon said she lives on the property to the north of this area. She said she only has four acres, so she cannot discharge firearms, but a lot of shooting goes on. She said at the last meeting, the builder said he would consider putting some kind of divider to the south of her property to maintain some privacy. She said she assumes this is an HOA-maintained property, and the screening will be maintained by the HOA. She said her concern is privacy. She said the road work was just done on Bellefontaine Road last year. She said they lost all of their privacy on Bellefontaine Road from that road work and now they will be exposed on the other side.

Mayor Gore said the Council Work Session recommendation was to pass this item to a third reading. He said this item will be passed to a third reading.

- C. An Ordinance To Approve A Rezoning To Planned Residential And A Basic Development Plan For The Property Located At 6502 Old Troy Pike And Further Identified As Parcel Number P70 04004 0003 On The Montgomery County Auditor's Tax Map And Accepting The Recommendation Of The Planning Commission (Zoning Case 21-34). (third reading)

Mr. Chodkowski said he has had an opportunity to speak with the applicant, and the applicant is going back and forth currently regarding

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potential PILOT payments associated with this project. He said there were some calculation hurdles for the applicant to get over. He said in other states for this type of project there are automatic discounts that come with the assessed value and that is not the case here. He said City Staff had to work through helping the applicant understand how to go about calculating potential scenarios. He said the applicant is doing the review, and he is expecting those numbers later this week. He asked the Council to continue this item to another reading.

Mayor Gore said the Council Work Session recommendation was to pass this item to a fourth reading. He said this item will be passed to a fourth reading.

Ms. Baker asked if the City had received the traffic study for this development. Mr. Chodkowski said the traffic study for that project is done.

12. New Business

ADMINISTRATION
Bryan Chodkowski, Interim City Manager

- A. A Resolution Declaring The Purchase Of Potable Water As A Valid Public Purpose And Authorizing The Purchase And Distribution Thereof On An As Needed Basis.
(first reading)

Mr. Chodkowski said he had no additional comments.

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

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

- B. A Resolution Creating A Special Jonetta Street Sewer Tap-In District For The Provision Of Sanitary Sewer To Certain Residential Properties.
(first reading)

Mr. Chodkowski said he had no additional comments.

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

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

- C. A Resolution Consenting To The Ohio Director Of Transportation To Resurface State Route 202 From Fishburg Road To The South Corporation Limit.
(first reading)

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Mr. Chodkowski said this legislation is typical legislation from the Ohio Department of Transportation (ODOT) in line with the City's partnership for the maintenance of all state routes that run through the City, but in particular with State Route 202. He said there will be follow-up legislation as ODOT gets closer to the project and the actual costs are known. He said this item is just a procedural item for (ODOT).

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

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

- D. A Resolution Authorizing The City Manager To Negotiate And Enter Into A Development Agreement With Homestead Development, LLC With Respect To Senior Housing Near The Former Marian Meadows Site. (first reading)

Mr. Chodkowski gave a presentation to address this matter prior to Council's consideration. He said there are a lot of moving parts in and around the proposed development project area and there are some elements of this project that date back several years. He said he would like to talk about Homestead at The Meadows. He said The Meadows is City Staff's compromise with respect to Marian Meadows, the strip mall the City acquired along with the CR Dayton property that has certain connotations to it, as well as the originally proposed name of Southpointe Crossing which had different connotations to it, so it needs to be called something. Until a better suggestion comes along, he said this area will be referred to as The Meadows. He said this development was the concept design that was presented on behalf of the City just over a year ago with respect to the unveiling of the City's partnership with the Dayton Metro Library. He said the concept drawing reflects some other consistent items, including the CR Dayton strip mall, Dogtown, and the existing Premier Health facility and a conceptual Premier Health facility in the future. He said the remainder of the elements changed somewhat across the site, but these elements are based on another document which is the Brandt Pike Revitalization Plan. He said he wants to make sure he touches on that point of some continuous elements through the concepts. He said in working to develop components of the City, development is about relationships, building relationships and maintaining those relationships. He said one of the relationships started two and a half years ago was with Homestead Properties in Columbus. He said Homestead Properties is traditionally affiliated with senior housing and student housing. He said City Staff talked about the senior product and standing up market rate units, and that was also the time the City was talking with Broad Reach. He said Homestead Properties elected to work first with Broad Reach and indicated they had a desire to work here. He said The Meadows is an updated concept drawing. He reviewed the drawing and pointed out proposed potential civic spaces, one of which is the Senior Center. He said the information Homestead Properties provided in response to comments made by the Council, citizens, and comments made as part of the Brandt Pike Revitalization Study. He reviewed the public roadways through the development. He said the plan represents 133

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senior apartments for age 55 plus, and then 192 market rate units. He said Homestead senior housing product is in existence in the Dayton market. He reviewed the development agreement and the price. He said the partnership with Homestead includes the public road, utilities, and stormwater split. He said this development also presents a revenue source utilizing the TIF overlay and the maintenance of this facility as a public gathering or recreation space. He said the developer is looking into utilizing a post-1994 CRA and a TIF overlay. He said the CRA grants a 50 percent tax abatement for 15 years and then afterwards 100 percent of the taxes are due. He said the TIF would capture certain amounts of millage due to all the various parties. He said the TIF the City is proposing is a non-school TIF and he discussed its effect on Huber Heights Schools and the Joint Vocational School. He said the total net 30-year surplus is over \$7 million. He spoke about how all of the different projects come together and he said the development agreement is not absent thought and conscious application of other information and data. He said new retail space is relative to this project, just not on this project. He talked about economic development and how it works. He said a lot of what The Meadows plan represents comes from the 2017 Brandt Pike Revitalization Plan. He gave the history of the Brandt Pike Revitalization Plan and he discussed target markets. He said the study in that area showed low incomes and no discretionary income. He provided statistics on the neighborhoods, population, incomes, and traffic counts. He said the increasing population at this site benefits businesses around the area. He said adding more people with more expendable income to attract elevated market options in fewer buildings is what this proposal does, and he asked the Council to adopt a resolution in support of the development agreement. He said this plan offers 132 age 55-plus senior apartments, 192 market rate apartments, and \$40 million dollars' worth of taxable real estate that did not exist before.

Mrs. Cindy Schwartz said she lives in Ward 2 and everything she saw and heard tonight is amazing. She said everyone talks about wanting growth in the south of the City, and then the City finally starts to do that and then people do not want "that" growth. She said she does not see how people in the south part of the City would not want this development.

Mr. Ron Deak said this development is left hanging and he asked what are the steps that have to happen to correct the deficiencies of suburban sprawl. He said he spoke with a Councilmember, and what the developer is putting in across from The Oaks is perfect for that area. He said now things are back to apartments. He said the property was sold to the library for a million dollars for only a few acres. He said now the City is selling property at \$50,000 an acre. He said that transaction is a sweetheart deal for the developer.

Mayor Gore said this piece of property is one specific piece of property. He said the Marian Meadows site is one phase of the Brandt Pike Revitalization Program. He said the City needs to recoup the \$8.5 million spent in order for the taxpayers to have confidence in the Council to continue revitalizing the corridor. He said economic development does not happen without people or money. He said this is not a project that can be voted on based on emotion. He said the Council voted to spend the \$8.5 million buying that property to bulldoze it to generate a new aesthetic look for that area. He said, if it is not about the money, where does the City go from here? He said the City has to have the ability to recoup its investment

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to duplicate that process from Kitridge Road to Fishburg Road. He said the City took a step and invested in itself and now someone wants to contribute \$40 million of taxable property in the center of town. He said if the City does not do something, the City will always get what it always got. He said when you minimize retail space, property values go up because there is a bigger demand for the space. He discussed the advantages of this development. He said this is Phase One of the Brandt Pike Revitalization Plan. He said all that can be done as a Council is to pick up the torch from other Councils, move it forward, and advance it in the best way possible so when other Councils are elected, they can do the same thing and leave the City in a better position than when Council found it. He said he has looked at that hunk of crap for 40 years, and he is proud of what this project can do.

Mr. Jeffrey Held said the presentation was masterful. He told a story about where he grew up in Pennsylvania in an area with similar issues with strip malls, no businesses, and people moving out of the City. He said the Council having the wisdom to start seeing that happen and making sure it does not happen in Huber Heights is a great thing.

Mrs. Cindy Smith said she was surprised to see this item on the agenda as she was at the Town Hall Meeting. She said she felt this development did not represent what many people spoke about. She said she remembered discussing providing owner-occupied homes, not more rentals in the City. She told the story she told the Council before about a City she moved to that went through rapid growth and eventually rentals changed the flavor and soul of the City. She said she heard a statistic that Huber Heights has 30 percent rentals, and the owner-occupied portion of this plan is not there. She said she is grateful there is senior housing, and she has so many questions, such as if the City is looking at grants, if Huber Heights residents are a priority, if this housing is income limited or supplemented. She said there needs to be more discussion and thought put into this development and the effects of what this project will have on all of the residents.

Mayor Gore said this item is a resolution to sell the property and there is nothing on the agenda that would preclude or eliminate the need for the developer to have a Basic Development Plan to go to the Planning Commission and he explained the same processes this development would go through like any other development.

Mrs. Smith said in Exhibit A for this item, it specifically states 133 rental units and 183 market units.

Mayor Gore said that is the plan, but the look, design, and all of those things would come back for review with the Basic Development Plan. He said if the concern is only owner-occupied housing or a mix, that is certainly an issue as that is not in the plan. He said part of the plan the developer put together was based on the study.

Mrs. Smith said she looks at the rent for Parkview Apartments, and when Mr. Chodkowski talked about the income of the area, she said people will not be able to afford those apartments.

Mayor Gore said the market rate north of I-70 would be higher than the market rate for this area. He said those rents would certainly be different.

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He said the reason the rentals seem like a lot is because of the number of households in the City. He said if compared to Centerville, Miamisburg, Kettering and other communities, the rental portion is virtually the same. He said the difference is, Huber Heights has 15,000 residential homes in Huber Heights, so 23 percent of the 15,000 houses is more than 23 percent of Beavercreek's 38,000 houses. Mayor Gore asked for a motion.

Mr. Webb moved to adopt; Mr. Campbell seconded the motion.

Mr. Otto said on one of the slides there were four items checked off and the one item not checked off is new retail space. He said the new retail space is not there. He said on civic uses, yes there are civic uses, but nothing new, just relocated. He said on traffic connectivity, running the street through from Fishburg Road to Chambersburg Road is true. He said it is walkable, if Mr. Chodkowski meant by the pure definition that he can go there and walk. He said, then sure, but by that definition, Old Troy Pike and Brandt Pike are walkable. He said that was not what was meant by walkability when talking about the study. He said he has no reason to go to this design and walk. He asked where he would walk to. He said it would be like every other place in Huber Heights where you pull in, park, take care of business, go to the car, and drive to the next place. He said there is nothing there to walk to. He said regarding outdoor space and recreation, he does not get that point. He asked what his family is going to do there? He said the plan hits two out of five items, but he does not think that development is what people wanted. He said in the Buxton data, depending on where he wants to go, he can make the data work for him or not. He asked if the data companies address niche markets locality by locality or even on a regional basis, or only by national retailers.

Mr. Chodkowski said Buxton or ESRI only responds with the information given. He said if the niche market or regional franchise has not provided that information to the database to be utilized, it would not be reflected within that information. He said regardless, the demographics would not be misleading with regard to the same market elements. He said if the demographics of Cassano's do not work, then the demographics for Marion's are not going to work either.

Mrs. Kitchen asked what other developers Mr. Chodkowski worked with in this area.

Mr. Chodkowski said City Staff has had conversations with several developers, and this is the one who responded with a proposal.

Mrs. Kitchen said she went out and walked the neighborhood and talked to residents. She said the residents feel they are not heard by this Council and they do not know how a single row of a tree line is a buffer for a three-story apartment building looking into their backyards, and in winter there is no buffer. She said she gave petitions to Mr. Rodgers, there are emails, and the residents are not happy. She said notices were sent out regarding a bike path at Dial Park, and this project is a whole new development and the residents received no notification and feel blindsided. She said these are people who have been there for many years, and they need to be given the same respect even if their income is not what it is from Old Troy Pike to here. She asked if the City should be moving ahead with this project right now, as there are so many projects going on right now, and a new City Manager will be coming

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in, and there is no Economic Development Director. She said there is a water system issue still going on, and the development is right in the heart of the water problems. She said the City cannot replace every water line right away. She asked how the water system is going to be constructed in that area.

Mr. Chodkowski said, based on the information presented with respect to the concentration of water main breaks, this particular area is not receiving a disproportionate number of breaks. He said the area where the City is seeing a disproportionate number of breaks, northeast of Chambersburg Road and Old Troy Pike, is being designed for six sections of water main replacement, which will happen later in 2022. He said even if the project under consideration by the Council were to pass tonight and be fast tracked through all the processes, construction at this location would not commence until late 2022, coinciding with the water main replacement in the area of the abnormal number of breaks. He said because there is not an abnormal number of breaks in the area designated for the project and the infrastructure for this project would be going in around the same time as the problematic infrastructure is being replaced, City Staff do not believe this project would be detrimental to the water system. He gave the timeline for installing the infrastructure for the development. He said the water main replacement work should be done if not nearly complete, when this project would come online and begin drawing water from the utility.

Mrs. Kitchen said the numbers do not total as it states the City is selling 17 acres, but the specifications do not equal that amount.

Mr. Chodkowski said the concept drawing predated the actual verbiage within the agreement. He said it is conceptual and subject to final survey as well as the process for site approval which correlates to Mrs. Kitchen's earlier comments about notification to the adjoining neighbors. He said the process provided through the City Code or practices approved by Council is being followed. He said approving this development agreement does not guarantee the development occurs. He said the development still has to go through the formal process before the Planning Commission. He said that is when those residents who meet the minimum requirement for notification would receive notification so they could come to the Planning Commission and eventually come to Council and provide commentary on how the project would impact them. He said City Staff are not being disrespectful or ignorant as to the needs and the wants of the citizens. He said City Staff are following the administrative processes and procedures. He said City Staff are simply at a point in the process where the residents are not yet notified and he described the process.

Mrs. Kitchen said when Council received the notice on Friday, it read Council is trying to approve the project for senior housing and market rate housing, and now it just reads senior housing and she asked why the market rate housing was eliminated.

Gerald McDonald said he drafted the legislation and left it out.

Mrs. Kitchen asked, since the City has no Economic Development Director, if there have been conversations with Community Planning Insights, the company the City is contracting with for planning services, about the project.

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Mr. Chodkowski said that conversation would be part of the process once this legislation is approved. He explained the procedures for the terms and conditions of sale.

Mrs. Kitchen said at the August 31, 2021, Town Hall Meeting, residents were told they would get a clean slate proposal because the citizens expressed what they wanted and the available sketch at that meeting was not what people wanted. She asked if anyone had seen a clean slate proposal. She said people wanted a downtown and this proposal is not a downtown. She said there is nothing in the proposal that would bring her to it unless she is at a City Council Meeting. She said there are 1,060 parking spaces, and this area is not a walkable area. She said Ward 4 should get the same respect as Ward 1 did with Dial Park, Ward 6 did with the development on Bellefontaine Road, and Ward 5 did with the apartments that were going in there. She said the study of citizens wanted a downtown. She asked why the residents were asked if the Council had no desire to make this area a downtown. She said do not promise the citizens something that cannot possibly be filled. She said she was elected to represent the visions and wishes of the people in Ward 4, and she will be voting no.

Mayor Gore said he met with Mrs. Kitchen for quite some time and one of things she asked him to do a couple weeks ago was to have the City Manager provide a letter of intent to the Cincinnati Reds to provide housing on this site for baseball players for the Dayton Dragons. He asked why in Mrs. Kitchen's mind, housing on this site is okay for

Mr. Chodkowski said the agreement in and of itself provides protections for both parties and to single out one particular provision does not invalidate or does not provide the whole context in which the agreement also protects and defends the interests of the City.

Mr. Shaw said Section 4.12 states the developer can hold an option on the property until January 23, 2023, and still get a \$20,000 return on the deposit and not a single thing happens. He asked if he was correct in the reviews of those two sections.

Mr. Chodkowski said yes, providing the City Council were to approve the request for that option.

Mr. Shaw said that option is in the development agreement, so the Council would be approving that tonight because it states the effective date is tied to the resolution.

Mr. Chodkowski said his understanding of the agreement is that requesting those extensions is not automatic and the extensions have to be approved by the City Council.

Mr. Shaw said Section 4.12 states there is no extension that is needed and that is the set time period, and Section 4.11 allows two 60-day extensions providing deposits of \$10,000 each which then can still be returned to the developer.

Mr. McDonald said this agreement is still in draft form and it is not the final agreement. He said the request is to renegotiate and finalize this agreement substantially on these terms. He said his understanding is the developer has a certain amount of time to close, that is what the \$20,000 deposit is for and if,

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for some reason, the developer is not ready to close, the developer can extend for 60 days with a \$10,000 nonrefundable deposit.

Mr. Shaw read Section 4.11 and he said it already establishes the timeline. He said this information was not in the presentation to the public.

Mr. Chodkowski explained there are two timelines in the agreement, one being the timeline to meet the conditions to close and then the timeline for closing, and these timelines are not one in the same. He explained the differences in the two timelines and the penalties. He said these timelines are not dissimilar to the agreements with the library or other developments.

Mr. Shaw said that Mr. Chodkowski said the developer wanted to start immediately, but there are two provisions that give the developer a date to close of January 2023 or a future date of May 24, 2023.

Mr. Chodkowski said his comments about the developer were that the developer wished to start as soon as possible. He said he is quite confident if the Council chose to table this particular item tonight and visit it at another meeting, that it would not invalidate the developer's desire to come back and build two weeks later or six months later if that was the timeframe it takes for the Council to pass this particular legislation.

Mr. Shaw said that would be his request as the public has had just a few days to review this project as well as any third parties interested in this site or existing business owners. He said his recommendation would be to remove those two sections because he does not see how it is a more of a penalty to the developer than it is to the City. He said if the developer is holding on to that land for a year or year and a half, then the developer is penalized \$20,000, but the City and its residents are penalized because the City is not able to market that property.

Mr. Chodkowski said that is why Mr. Shaw has a vote and he does not.

Mr. Shaw said the proposed development agreement shows a date of 2021. He asked when City Staff started working on this agreement.

Mr. Chodkowski said the initial proposal arrived right before Thanksgiving.

Mr. Shaw asked, regarding page 26 of Exhibit A and page 25 of the development agreement, who are the individuals who provided comments in the margin that appear to be negotiation efforts.

Mr. Chodkowski said his comments are listed as CB, and the comments from DF are from Doug Falor, one of the agents of the developer.

Mr. Shaw said Section 5.2 mentions 150 temporary jobs will be provided within this development agreement, and it has been stated several times this project is a concept and not a set-in stone project. He asked Mr. Chodkowski to disclose what the 150 jobs are that are being provided.

Mr. Chodkowski said he is not able to disclose that information.

Mr. Shaw said he has a problem that the Council is asked to vote on a development agreement with a detailed item and City Staff are unable to provide context to this information for the residents. He said he also sees no

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details related to the Mayor's comments on the alleged \$13 million that would go to the schools with no calculations available.

Mr. Chodkowski said those jobs would have to be validated by the developer with respect to the agreement. He said the way the agreements come about in this particular instance is that the CRA is tied to employment as well as investment dollars. He said while the agreement might say 150 jobs and the developer can only produce documentation of 70 jobs, the City is under no obligation to award the CRA in the context of how the agreement is structured. He said this project is a long and complicated process and there are multiple agreements involved that are the checks and balances along the way. He said this item is the start of a marathon that will lead to the win of a \$40 million multi-family investment comprised of 192 market rate units and 133 senior units. He said this project is a process that takes time and a partnership of trust. He said there are multiple steps along the way. He said he is here to advance the interests of the Council in accordance with policy, procedure, and the law he is required to follow that will ensure the checks and balances exist and are in place to address the concerns of Mr. Shaw relative to the jobs and benefits the agreement allows City Staff to negotiate and enter into.

Mr. Shaw said \$40 million has been brought up multiple times. He asked if the City has the due diligence or the analysis provided prior to the site development market valuation plan stated in the development agreement.

Mr. Chodkowski said he does not.

Mr. Shaw said the research is not available to enter into this agreement to give to the residents. He said he is going on the hope and what if of a 30-year item where the residents stated clearly what they wanted in this area. He said the combined number of units is 325 with 454 parking spaces and asked how it was calculated.

Mr. Chodkowski again explained this development has to go before the Planning Commission where any issues will be ironed out, and he reiterated the process.

Mr. Shaw asked Mr. McDonald if Section G under Article III is standard language in the City's development agreements.

Mr. McDonald said it is standard language and it is standard with respect to Ohio Revised Code Section 3517.13 that no members have any connection with the developer. He confirmed there is no litigation that would adversely affect the City's ability to carry out this agreement.

Mr. Chodkowski reviewed the monetary value of the CRA for Mr. Shaw.

Mr. Shaw said a resident had brought up thoughtful growth, and he is going to add in forced growth. He said there were comments he recalled on the Brandt Pike Revitalization Plan that stated forced growth would destroy commercial businesses and retail. He said he just found out that the Huber Heights Chamber of Commerce was not made aware of this project. He said he would like to hear its feedback along with feedback from Eric Knowlton and the owner of Lofino's. He said these individuals and groups should have a little insight as well to see if this project is beneficial to area businesses. He said a lot of commercial businesses on Brandt Pike are taking care of their

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properties and improving the properties. He said this development has not happened, as he said in his original comments in 2014 and 2015, because this City will not hire an Economic Development Director. He said the City has never had an Economic Development Director charged with doing this job. He said if the developer read through the Brandt Pike Revitalization Plan, he agrees with Mr. Otto that they missed several items. He said this Council passed an overlay plan for mixed use development and a lot of other wonderful, inventive things for this community and it is not in the plan at all. He said the Council wasted a load of time passing legislation for this particular area that it is not even using. He said if the City has a solid partnership with the Dayton Development Coalition and MVPRC, and a solid plan that contains what the residents want, he believes if the City provides the residents what they want and the Council tells them they will not be able to recoup every dollar but will give them the exact things they are looking for, he bets the residents will say they are fine with that outcome. He said the residents that he, Mrs. Kitchen and Mr. Otto spoke with, who are directly impacted and in this area are adamant about having no apartments.

Mr. McDonald and Mr. Chodkowski listed the deed restrictions for the parcel purchased from Premier Health for Mayor Gore.

Mayor Gore reiterated what type of businesses cannot be placed on this parcel and he stated that residential units and multi-family units are an approved use of the deed restrictions along with light commercial businesses. He said the study states the City needs to reduce the amount of commercial space to increase the actual commercial property value along the Brandt Pike Corridor. He said there are not a lot of options. Mayor Gore said he is not interested in losing taxpayer money on this project.

Mr. Shaw said he would question if the ordinance provided by the previous City Manager and the review by the Law Director at that time was accurate. He said that is what the Council told the residents it was going to be. He said the Planning Commission was involved in that effort and the City went through a lot of steps and communication on that effort. He said he would hate to tell everyone in that area and the entire community that the Council passed this item and he said the information was valid at that time, but it does not meet the narrative.

Mayor Gore said it is the deed restrictions, and the study states it is necessary to reduce retail space.

Mr. Shaw said he will not support this item tonight. He said if it is passed to a second reading, he would be interested in seeing the business community's input on this item.

Mayor Gore said on social media, he saw a long list of items Mr. Shaw posted asking people to come out and show their opposition. He asked if he also asked people to come out who are in support or is he trying to fill his narrative through social media?

Mr. Shaw said he did not state his opinion, he provided facts.

Mayor Gore said there was an Executive Session last week to talk about this project and to go over these details, but Mr. Shaw and Mr. Otto walked out.

Mr. Shaw said three slides in, it was a complete waste of time.

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Mayor Gore said the Council was in Executive Session which the Council voted to go into and Mr. Shaw decided not to participate in the discussion.

Mr. Shaw said it was noted that the Council had to go into Executive Session because a person's private interest would overweigh or benefit the public's interest. He asked where that issue is at tonight and if the Executive Session under that topic was valid.

Mr. McDonald said there were two choices that the Council could go into: the public sale of this property to the best bidder or the City could entertain an offer or a development proposal received. He said the Executive Session began and ended quickly. Mr. McDonald confirmed to Mr. Shaw that going out to public sale is always an option.

Mr. Otto said this project was not sold as an investment, it was sold as the City was creating a space and a new part of the community that the community did not have. He said the Council can speak on the return of investment all day long, but the City will not get a dollar back from the Veterans Memorial, and it is a good investment. He said the City will not get a dollar back from the bicycle amenities, but these amenities are good investments. He said the City will not get a dollar back on park space or playground equipment, but these items are still good investments. He said it is not always about dollars, it is about taking care of the community and the people in it. He said these people came out for a solid year, walked up and down Brandt Pike, gave comments, and said what they wanted. He said the Council heard what it wanted. He said no one ever said, as long as you get the money back. He said sometimes it is not purely about the return on the investment, it is about providing an amenity to the community. He said otherwise there would not be a Kroger Aquatic Center because it loses money every year. He said the return on the investment should not always be measured in dollars and cents. He said sometimes it is measured in the quality of life and wellbeing, especially for those in that area of town. He said this project gives nothing back to the people. He said the project was not about dollars and cents, it was about creating a community. He said Mr. Campbell nailed it when he said the Council is biting off a ton here. He said Mr. Campbell implied the City could lose a lot of money on this project and asked if the Council could stomach it. He said this effort was never about the money, it was about creating a space and an opportunity for the residents to congregate, socialize, and enjoy themselves.

On a call of the vote, Mr. Lyons, Mr. Webb, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; Mrs. Kitchen, Mr. Shaw, and Mr. Otto voted nay. The motion passes 5-3.

13. City Official Reports and Comments

Mr. Shaw said he is wearing his Bengals' tie today and he will be hoping for a win on Sunday. He said he would like to see the Bengals go to the Super Bowl.

Mr. Webb said this morning he and his wife participated in Coffee With A Cop. He said there was a good number of Huber Heights Police Officers at the Huber Heights Church of God this morning with coffee and donuts and an opportunity for all to address comments to the Police Division. He said it was phenomenal. He said this event will be done on an ongoing basis

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with varying times and locations. He thanked the Huber Heights Police Division and the Huber Height Church of God. He said he gained so much knowledge of the Police Division.

14. Executive Session

There was no need for an Executive Session.

15. Adjournment

Mayor Gore adjourned the Regular Session City Council Meeting at 8:38 p.m.

Anthony C. Ruden 2-15-22
Clerk of Council Date

Guy Gore 2-15-22
Mayor Date