

RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES 8-4-2014 11:29:51 AM
In Council Chambers

Held 6131 Taylorsville Road May 23, 2022

1. Call The Meeting To Order - Mayor Jeff Gore

The Huber Heights City Council met in a Regular Session on May 23, 2022. Mayor Jeff Gore called the meeting to order at 6:00 p.m.

2. Invocation - Pastor Randy Griffith Of The Free Methodist Church At 6875 Old Troy Pike, Huber Heights, 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 – May 9, 2022

After the approval of the minutes, Mayor Jeff Gore said there is an item to take care of before getting into the agenda regarding something that happened at the last City Council Meeting when Councilmember Mr. Lyons got up and left in a protest vote. He said he was not sure how that vote played out with the City Charter and what the common law is in the State of Ohio. He said he asked the Law Director, Mr. McDonald, to do research about that matter and on what, if any, effect that would have on the legislation where that particular event happened. He said Mr. McDonald responded to him earlier that afternoon, and he asked Mr. McDonald to read his legal opinion.

A copy of the legal opinion was passed out to all Councilmembers. Law Director Gerald McDonald read his email aloud. In summary, Mr. McDonald's email stated there is nothing in the City Charter or the Rules of Council that gives Councilmembers the power to avoid voting exclusively to avoid a tie-vote situation. He said the only authority for a non-vote is in the Huber Heights Rules of Council, Section 12, which specifies that Councilmembers shall abstain from voting on the formal discussion of any motion or issue wherein the member may have a conflict of interest and they are expected to notify other Councilmembers of the conflict as soon as such conflict becomes evident. He said the law in Ohio is clear, and any Councilmember that is present and refuses to vote is deemed to have acquiesced to the will of the majority of the Councilmembers that do vote. He said the Ohio Supreme Court has held with respect to a City Council, that when all members are present, those who refuse to vote in an election are deemed to have acquiesced in the choice of those who do vote and he cited the case. He said the effect of this ruling is that members cannot, by refusing to vote, defeat the election or divest the body with the power to elect. He cited a case where it was determined that one of the members of the legislative authority did not vote, which prevented the Mayor from having the ability to break a tie. He said the Councilmember was present at the meeting, and his presence was recorded by a statement in the minutes that he was not voting. He said the court noted that as a Councilmember is elected for the purpose of expressing an opinion, "Action, and not inaction, is a duty that he assumes with the office." Id. He said the court held, consistent with prior courts and concluded that "the rule known as the common-law rule is a proper and efficient rule to adopt, in order that municipal business shall be conducted with a proper regard to the wishes of its citizens. This common-law rule may be stated to be that the legal effect of refusing to vote is an acquiescence in the action taken by the majority of those who do vote." Mr.

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McDonald said that Mr. Lyons was clearly present at the meeting being seated when his name was called for the vote, and he got up and refused to vote. He said under the rule of Ohio common law, his refusal can be counted as an acquiescence in the action taken by the majority of those who did vote, and as a result, he believes the ordinance to approve the Campbell Berling Basic Development Plan can be deemed to have passed by a vote of 5-3.

Mayor Gore asked Mr. Chodkowski what the next steps would be for the developer and how to change the record.

Mr. Chodkowski said he would defer to the Law Director and Clerk of Council's Office with respect to the next steps to validate the legislation. He said once the vote is certified as accurate and correct, City Staff will contact the applicant to make an application to the Planning Commission for the Detailed Development Plan pursuant to this conversation and the commitment the developer made to the City Council through the Basic Development Plan.

Mr. McDonald said the next step would be for Mayor Gore to sign the legislation to pass it as a 5-3 vote, and he said the ordinance would go into effect in 30 days.

Mr. Otto asked Mr. McDonald if this is the first time this situation has happened since he has been Law Director for the City.

Mr. McDonald said this matter is the first circumstance he has been asked to look into. He said he knows on two other occasions a Councilmember has left, but he does not know the circumstances as he was not present for one of them and the other one happened so many years ago that he does not recall.

Mr. Otto asked if the Law Director was going to have to look at everything that had happened in the past, and anytime anyone had gotten up and walked out, would Council have to change that result?

Mr. McDonald said he only made the opinion as to this particular instance. He said it is very specific as one has to be present and one has to refuse to vote, and in his opinion, both of those happened.

Mr. Otto said that exact example has occurred on multiple occasions since he has been on Council.

Mr. McDonald said he would be glad to look at those instances if needed.

Mr. Otto said he thinks Mr. McDonald will have to and he said if Council is going to stand on this instance, then it will have to stand on all of the instances.

Mr. Lyons said this was the first he had heard of this point and he was not told prior to the meeting. He said Mr. McDonald has some citations from previous decisions which gives credence to the reading. He said the previous court decisions were when members had refused to vote, and Mr. McDonald's opinion is that he refused to vote.

Mr. McDonald said Mr. Lyons stated his action was a protest.

Mr. Lyons said it was a protest, and he did say that, but he left the room. He said once a Councilmember has left the room, it is not a refusal to vote. He said if one has left the meeting, by law one cannot vote. He said that is going to be where litigation from The Oaks is going to come from on this issue. He said he would imagine Mr. McDonald is expecting this to happen. He said he would certainly work favorably with the residents of The Oaks. He said he respected Mr. McDonald and his opinion, but when he stood up and protested and left the meeting, that is a little different than refusing to vote while in a meeting.

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Mr. Shaw asked the start and end dates for the residents of The Oaks to go through and push this vote to a ballot measure by contesting this vote.

Mr. McDonald said that it could be contested through a referendum and he does not know right now if it is the date the vote occurred or the date the Mayor signs the legislation because these are unusual circumstances. He said the safest bet is thirty days from the date when the legislation was passed, but he thinks that would be hard-pressed and it may be challenged if it was two weeks later, but he does not know the answer to that question. He said the ordinance received a 5-3 vote on May 9, 2022, based on this opinion, but the Mayor has not signed the ordinance yet. He said he does not know in terms of a referendum, but he believes it would be the date the legislation was passed by Council, which would be May 9, 2022.

Mr. Shaw said he understands if a piece of legislation is not signed within a certain amount of time, it is null and void and he said he believes the City Charter speaks to that matter. He said he would like an opinion on that issue as well as the referendum time period. He said those issues are very important to a few members of this Council and to residents of The Oaks. He said it could very well make the ballot this November. He asked Mr. McDonald for that information as quickly as possible. He said he was unaware that research was being done.

Mr. McDonald stated for the record that he received the request on Friday, and he turned the opinion in on Monday and it was not something that had been in the making for a while. He said he honestly was surprised by the outcome and he was surprised there was a case so on point.

Mr. Shaw said he is surprised as well as this action has taken place multiple times in this Council room over the past ten years and is done throughout the state. He said Mr. McDonald has issued the only opinion he has ever heard on this matter.

7. Special Presentations/Announcements

There were no Special Presentations or Announcements.

8. Citizens Comments

Jane Deeter from Huber Heights Amateur Radio Club invited Council and City residents to meet with amateur radio operators at Cottonwood Park on June 25, 2022, between 2 p.m. and 10 p.m. for the annual Field Day Event. She said this event is a National Field Day for amateur radio enthusiasts. She provided details about the events of the day and discussed ham radio operators' roles in the community.

Kevin Brokaw, a representative for Horizon Line Development, said there is a current development agreement with the City for the property on Executive Boulevard. He said after working with the City for over a year, the mixed use development received an abrupt 0-8 vote on May 9, 2022, despite the Planning Commission's recommendation and City Staff's statement of satisfaction and recommendation to move forward with development. He said Council's action occurred without discussion by Council or an opportunity for the development team to address Council's concerns or questions. He said the development team feels this action was a change of course from the last fourteen months of working on this project intimately with City Staff. He said to be dismissed so abruptly without explanation or the chance to respond seemed unfair and not in the spirit of the development agreement. He said the company had not heard a legitimate reason or explanation. He discussed the jobs the development would provide and the revenue the development would provide. He said he is there tonight because he has received no response to telephone messages and follow-up emails to the City. He said the company is excited to be a part of Huber Heights and he

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requested a motion for reconsideration be made to give the developer more time to work with the City on the project and to extend the outside closing date in the agreement, which is June 28, 2022, in order to have time to learn Council's concerns and goals, and to try to work to meet those concerns. He said this left turn hit the company out of nowhere. He reviewed the highlights that changed over the course of the project from when it started. He said the development team would like to get back to the relationship they have enjoyed with the City. He said to be abruptly dismissed after working on this project does not feel right and it has not been indicative of the relationship established with City Staff over the last fourteen months. He asked for someone to make a motion to reconsider, and to extend the outside closing date to October 31, 2022 to give the developer time to hear from Council and to continue to work together to get the project back on track.

Mayor Gore said since this was a 0-8 vote, anybody on Council can make a motion to reconsider. He said any member of Council is welcome to talk about why they voted no on this issue.

Mr. McDonald confirmed to Mr. Shaw that today would be the last opportunity to make a motion to reconsider this item, the motion would have to be seconded, and the motion would need five votes to approve the motion. He said then there would need to be a second vote on what was originally proposed, which was the Basic Development Plan. He said in terms of the development agreement and extending the time, that issue would not be before Council because that issue was not part of the Basic Development Plan.

Mr. Shaw asked Mr. Chodkowski, since the May 9, 2022, City Council Meeting if there had been any information received that he had not passed on to Council about this project.

Mr. Chodkowski said there is no new information he had received that has not been passed on to Council.

Mr. Shaw said he has been one of the biggest opponents to this project, but he appreciates that Mr. Brokaw addressed Council in a professional manner. He made a motion to reconsider this item to open the discussion back up. He said his vote would not change.

Mr. Otto seconded the motion. He said he did not think he would be swayed, but Mr. Brokaw's approach was very professional, and he would like to give the Councilmembers an opportunity to change their vote. Mr. Otto said Mr. Brokaw commented about working with City Staff and he used the term that City Staff had made some promises. He said, so that it is clear, City Staff has no authority to do such a thing and those decisions are made by Council and City Staff merely accommodates the process. He apologized for any promises made.

Mr. Brokaw said he does not want to characterize the interactions as promises. He said the feeling is more along the lines that everyone was working together and moving forward, and steps were occurring that would be in line with the developer proceeding with the project. He said he did not want to mischaracterize what City Staff had done. He said his statement was more about the positivity and momentum and then the abrupt shift.

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

Mr. Shaw said he was shocked this item failed at the May 9, 2022 City Council Meeting. He said he would like to think comments he made persuaded his

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colleagues to make that decision. He said there needs to be development in that area that Council can fully agree on. He said that it is an interesting piece of land that needs to be developed the right way. He said he hopes Mr. Brokaw can work with City Staff and redefine the plan and start that process. He said this vote is nothing against Mr. Brokaw or his partners, but he has constituents to whom he has to answer.

Mrs. Kitchen said she is new, but she voted no because people were promised an entertainment district, not housing, and the residents are getting tired of everything being about housing. She said the citizens put her on the dais for that reason.

Mr. Otto said the development leaned too heavily on residential, and he would like to see more commercial development in that area. He said if Mr. Brokaw could find a way to bring something back that fits the entertainment district concept a bit more, that it would do well in the location.

Mr. Brokaw said the developers have been moving this development forward for some time, and this vote happened two weeks ago and they have an outside closing date in the development agreement. He said they would have been ready to break ground in August, 2022. He said the team can make considerations and look at things, but there is a pending date and he asked that there is an opportunity to bring forward an amendment to the development agreement to give the developers time to react to this action.

Mayor Gore asked Mr. McDonald how this amendment could be done.

Mr. McDonald said a development agreement was passed by Council, and that development agreement would have to come back before Council for an amendment, and there would have to be a vote on whether or not to amend the development agreement in any way.

Mayor Gore said the agreement will be discussed at the June 7, 2022, Council Work Session, and Council will make the decision whether or not to move that forward for a vote to amend the agreement. He thanked Mr. Brokaw for attending the meeting and for his professionalism.

Ms. Cena Buchanan said it was her understanding the Fire Chief had expressed concerns about firefighter fatigue due to short staffing, and she was curious why Council turned down the idea of hiring more Fire Division personnel.

Mayor Gore said firefighter fatigue came up in the first discussion by the Fire Chief, and Council asked for more clarification. He said at the last meeting, the Fire Chief was asked specifically what firefighter fatigue meant. He said even while clarifying, the Fire Chief's recommendation was to not move forward and hire personnel until January, 2023. He said the Fire Chief was clear he believed there would be a much broader candidate pool at that time. He said that is why the legislation failed. He said he voted no because he was listening to the experts rather than Councilmembers' opinions.

Mr. Chodkowski explained from the presentation that the message that needs to be articulated is that which can be predicted can be prevented. He said that was the nature of the presentation and the request. He said in the original presentation there was a lot of analytical data. He said the issue is not what is currently being experienced, but what could be experienced based on those trends. He said this matter is not an issue of inadequate staffing today, this is about taking advantage of data today and looking to the future to minimize the impact on the staff.

Mr. Otto said Mr. Lyons had made comments in the meeting regarding threats, coercion, and things of that sort and he asked Mr. Lyons if he had anything to back those comments up?

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Mr. Otto said it should make Mayor Gore wonder how the opinion has changed and how the population has grown.

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Mayor Gore said the Fire Chief's opinion did not change, but the firefighters would be hired after there is a bigger pool to choose from. He said that was the presentation he gave: four new personnel in 2023, one being a Captain's position in an administrative role, followed by three more firefighters in 2024. He said since 2019, City Staff and the Fire Chief have always said the staffing levels are good. He said on top of that, there will be presentations from the Police Chief and Public Works Manager to review the needs of those departments/divisions. He said it does not seem financially responsible to move that matter forward when there are so many unknowns.

Mr. McDonald confirmed to Mr. Lyons that the legislation being reconsidered was a supplemental appropriations amendment to Ordinance No. 2021-O-2511 for Fire Division staffing.

Mr. Lyons read an email he sent to Councilmembers during this meeting regarding texts he received from Huber Heights Firefighter/Paramedic and President of the IAFF 2926 Mark Haun regarding firefighter staffing levels from December 8, 2020. He said that was from when the City Manager played a shell game on three additional firefighters. He said this text was verified publicly by Firefighter Mark Haun during a recent Council Work Session in which he spoke. He read the text from himself to Mr. Haun stating that this is a low priority to Council. He said a Councilmember told him that if the firefighters do not complain, it is not a problem. In his text, he asked Mr. Haun how he should handle it. He read a text from Mr. Haun stating if this is in regard to anything related directly to Huber Heights, he has been told he is not allowed to address Council. He said out of fear of losing his job, he prefers to discontinue any further conversation. Mr. Lyons said this is an old argument and it is called the Huber Heights Two Step. He said leadership in the City will tell the City Manager what they want to hear, and the City Manager will then send that information to the Directors or parrot that information at a City Council Meeting, so at the City Council Meeting that information is all Council hears. He said the argument is that these individuals are the experts in the field, this is the City Manager, this is the Fire Chief. He said one has to disagree with them as a Councilmember and argue with the Fire Chief about firefighters. He said this was bad, frustrating, disingenuous, and so many words he cannot describe. He said to have this happen to a firefighter is reprehensible. He said firefighter fatigue was very important in one meeting, but in the next meeting, the Fire Chief said it is important but it can wait until next year. He said there is or there is not firefighter fatigue. He said the presentation the Fire Chief gave expected seven new positions over the next two years. He said the president of the union said call numbers were up prior to 2021. He discussed sources of funding that he had found, but he was told it was not a valid source. He said the other argument was the pie was only going to be so big, and Council still needed to hear from the Police Division and the Public Works Division. He said that comment was weeks ago and there have been two Council Work Sessions. He asked how genuine that argument was when there have been no presentations. He said these are arguments being used just to say no, but this is the Huber Heights Two Step. He said the Mayor and the Vice Mayor both voted against this item.

Mr. Shaw asked Mr. Lyons if the firefighter and union president was aware he was going to release that information.

Mr. Lyons said he had not had any contact with him prior to this meeting other than when Mr. Haun was here, and he asked him if he had been coerced or threatened in his job or his future. He said at that time, Mr. Haun confirmed this text existed.

Mr. Shaw said he does recall those comments, and he hopes his colleagues vote to affirm the motion to reconsider. He said he thinks a full internal and external

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investigation needs to occur because, in light of the comments made between the Mayor and Mr. Otto regarding 2018 and comments made by the Finance Director during a FEMA grant discussion, he believes this information may have deeper roots to it as well. He thanked Mr. Lyons for bringing that matter forward and protecting the City and taxpayers. He said he hopes this Council will move forward with a full investigation to get to the bottom of that matter.

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

Mr. Shaw said he wanted to compel this item to be on the agenda at the next Council Work Session; Mrs. Kitchen and Mr. Otto concurred.

Mayor Gore said this item will be on the agenda at the next Council Work Session.

Mr. Lyons asked if this item could be voted on now. He asked Mr. Shaw if he intended not to vote on this item tonight.

Mr. McDonald said Council just voted to reconsider. He said it was now like any ordinance presented for the first time before Council. He said it should be read and handled as if in the first reading. He said the motion would be a motion to adopt.

Mr. Lyons moved to adopt; Mr. Shaw seconded the motion.

Mr. Shaw said in answer to Mr. Lyons, it is his hope to add an item to the Council Work Session agenda about an investigation to move forward with his allegations. He said as far as bringing a vote up on the supplemental appropriations ordinance from the May 9, 2022 City Council Meeting, he has no problem moving that vote forward tonight.

Ms. Powell read the ordinance by title.

Mrs. Kitchen asked if she votes on this ordinance, would it still be discussed at Council Work Session.

Mr. Campbell asked if a no vote would allow this ordinance to go back to a Council Work Session.

Mr. McDonald said a no vote would end this matter. He said Mr. Lyons made a motion to adopt this ordinance, and if it fails tonight, it fails. He said if it passes, it passes.

Mr. Webb clarified that the Fire Chief stood before Council and said new personnel would be hired in January, 2023 and that is why the motion failed. He said if the Fire Chief stands before him and tells him he needs personnel this week, he will have his vote. He said if the Fire Chief states 2023 is the appropriate time to hire the firefighters, he will stand with the Fire Chief.

On a call of the vote, Mr. Otto, Mr. Lyons, Mrs. Kitchen, and Mr. Shaw, voted yea; Mrs. Byrge, Mr. Webb, Mrs. Baker, and Mr. Campbell voted nay. The vote on the motion to adopt tied 4-4. Mayor Gore cast a tie-breaking vote nay. The motion failed 4-5.

Mr. Shaw asked Mr. McDonald to explain the referendum process and what residents needed to do to get this matter on the ballot.

Mr. McDonald explained the referendum process.

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9. Citizens Registered to Speak on Agenda Items

Ms. Powell said there are three citizens registered to speak on Item 12-D.

10. City Manager Report

Interim City Manager Bryan Chodkowski said the Arts and Beautification Commission is accepting nominations for the 2022 Beautification Awards. He said the Kroger Aquatic Center is set to open on May 28, 2022. He said the Police Division is accepting enrollment through June 1, 2022, for Safety Town. He said Safety Town will take place June 20-24, 2022, and June 27-July 1, 2022. He said information about all of these items can be found on the City's website.

Ms. Baker asked about the status of the Riverside and Dayton development properties.

Mr. Chodkowski said City Staff just heard back about a week and a half ago from the Ohio Division of Natural Resources. He said City Staff wanted to make sure that some of the terms and provisions of the agreement would not invalidate the request for the grant. He said City Staff were not able to make the last Council Work Session deadline, and this item will be on the agenda at the June 7, 2022, Council Work Session.

Mrs. Kitchen asked for a status on the Community Park playground equipment.

Mr. Chodkowski said the installation was supposed to begin last week, and he will get an update and will follow up with Council.

11. Pending Business

There was no Pending Business.

12. New Business

CITY COUNCIL

Anthony Rodgers, Clerk of Council

- A. A Motion To Reappoint Tina Daniel And Laura Shelton To The Arts And Beautification Commission For A Term Ending June 30, 2025.

Deputy Clerk of Council Karen Powell said City Staff recommended these reappointments to the Arts and Beautification Commission. She said the current terms for these individuals end on June 30, 2022.

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

Mrs. Byrge 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.

- B. A Motion To Direct The Clerk Of Council To Respond To The Ohio Division Of Liquor Control With No Objections In Reference To Transfer Of Liquor Permit #0218537 For Anika Group, Inc. DBA Marathon At 8001 Brandt Pike, Huber Heights, Ohio, 45424 To Liquor Permit #2458001 For JL Enterprises, LLC DBA Marathon At 8001 Brandt Pike, Huber Heights, Ohio 45424.

Ms. Powell said this item is a transfer of a C1/C2 liquor permit from the previous owner to the new owner at this location.

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

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Ms. Baker moved to adopt; Mr. Otto seconded the motion.

Mr. Shaw asked for an update on the Marathon gas station situation. He said it was recently discovered that there is a second gas station serving shots on Brandt Pike. He asked the Law Director and Interim City Manager for an official update.

Mr. McDonald said regarding the Marathon gas station on Old Troy Pike, an objection was filed and notice was received that a hearing would be scheduled in August, 2022. He said regarding the newly discovered gas station, he is looking into how a gas station can get a D5 liquor license. He said he had made inquiries with the Ohio Division of Liquor Control to find out how it was permitted in the first place. He said a D5 liquor license is for nightclubs and restaurants. He said there may be some loophole he does not know about. He said this matter is ongoing.

Mr. Shaw said Council was told by the Police Chief and City Staff that the Marathon gas station was the only establishment with a D5 liquor license, and now there is a second one. He said he is concerned there may be more. He requested to compel the Interim City Manager to ask the Zoning Division and Police Division to have ready for Council at the next Council Work Session a review of all non-corporate owned gas stations in the City limits. He said this issue needs to be under control. He said the new gas station on Brandt Pike is operating a full bar. He said for the establishment on Brandt Pike, he would like to know what options are needed for a precinct ballot issue to shut it down.

Mayor Gore said the location on Brandt Pike was formerly the Double Deuce bar. He said it did not occur to him to question what type of license was being transferred at that time.

Mr. McDonald said the liquor license was transferred to someone doing business as Double Deuce. He said when one looks at it, it looks like somebody bought Double Deuce. He said until the transfer is complete, the gas station is doing business as Double Deuce.

Mayor Gore said he agreed with Mr. Shaw and asked Mr. Chodkowski, and he asked what the time frame was that Mr. Chodkowski could have that information back from the Police Chief and ready to present a full report to Council.

Mr. Chodkowski said he cannot answer that until he talks with Police Chief Lightner tomorrow, and he will email Council with an appropriate schedule to return that information.

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

- C. Public Notice: In Compliance With Ohio Revised Code Section 145.381(B)(1) – Re-Employing Retirant, The City Of Huber Heights Gives Public Notice That Anthony C. Rodgers, Clerk Of Council, Will Be Retired In July 2022 And Is Seeking Employment With The City Of Huber Heights. The City Of Huber Heights Will Hold A Public Meeting On The Issue Of Anthony C. Rodgers Retiring And Being Re-Hired As The Clerk Of Council At The City Of Huber Heights At The July 5, 2022, Council Work Session At 6:00 P.M. To Be Held In The Council Chambers At Huber Heights City Hall, 6131 Taylorsville Road, Huber Heights, Ohio 45424.

Ms. Powell read the public notice as stated on the agenda. There was no discussion on this agenda item.

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- D. A Resolution To Appoint John Russell To The Position Of City Manager Of The City Of Huber Heights.
(first reading)

Mayor Gore said Mr. McDonald prepared an Exhibit A to this resolution, and he knows there are citizens present to speak on this agenda item. He said Council needs to discuss the Exhibit A in Executive Session and then once Council comes back it will hear Citizens Comments before any action is taken.

Ms. Powell said the motion is to go into Executive Session to consider the appointment, employment, and compensation of a public employee.

Ms. Baker moved to enter into Executive Session to consider the appointment, employment, and compensation of a public employee; Mrs. Byrge seconded the motion. On a call of the vote, Mrs. Kitchen, Mr. Webb, Ms. Baker, Mr. Campbell, Mrs. Byrge voted yea; Mr. Shaw, Mr. Otto, and Mr. Lyons voted nay. The motion passes 5-3.

City Council went into Executive Session at 7:30 p.m. Mr. Lyons left the meeting at 7:30 p.m.

City Council adjourned from Executive Session at 8:42 p.m.

Mayor Gore said the discussion in Executive Session was about the proposed Exhibit A to the actual resolution, but it was not part of the meeting packet.

During Executive Session, more Citizens Registered To Speak Forms on Item 12-D were left on the dais.

Mr. David Johnson said he is a former Vice Chair of the Property Maintenance Review Board and knows about City government. He said the City Manager should be familiar with the City of Huber Heights, commercial and retail businesses, police, fire, and residential areas. He said this person should have the ability to negotiate contracts and understand the City's policies and by-laws. He said he was supporting John Russell as the new City Manager.

Mrs. Yolanda Stephens said she has concerns regarding the City Manager search process. She said she is well versed and educated on fair and equitable recruitment practices. She said there is bias in the selection process utilized to select the final candidate. She read a statement regarding research on bias and unfair hiring processes. She said the outline of requirements for this position is not apparent in the selected resume. She said an African American male was one of the four finalists who possessed all of the qualifications, yet Council chose a candidate who did not possess the qualifications. She asked if Council ranked the required skills of a candidate and if a scoring sheet was used. She said the Culture and Diversity Citizen Action Commission serves as a review advisory panel for bias-based issues within the community. She said the commission is represented tonight to stand against a biased hiring process that impedes the City from hiring the most qualified candidate. She asked that the community be involved in these processes that affect the community at large.

Ms. Rhonda Sumlin said she is vested in this City, and she loves this City. She said each and every Councilmember looked at the commission members and said diversity, equity, and inclusion mattered. She said she wants to believe that it did, and there is another part of her that believes it is a ploy because it was an election year. She said everyone on the dais has a political agenda, and she asked the Councilmembers to separate the political agenda from the morality, integrity, and transparency that everyone talked about during the election year. She asked if Council is being open, honest, and transparent in this selection process as the optics do not look good. She asked if the Council was okay with not honoring the

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Mrs. Byrge said, based on the case Mr. McDonald read earlier, Mr. Lyons was present at the meeting.

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In Council Chambers

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Mr. McDonald said Mr. Lyons was not present at the time of the vote. Mr. McDonald said Mayor Gore would need to call a City Council Emergency Meeting for tomorrow as otherwise, the meeting would need a 24-hour notice.

Mayor Gore announced a City Council Emergency Meeting at 7:00 p.m. on May 24, 2022. He said a 24-hour notice of the meeting was not required if the goal was to take action.

ADMINISTRATION

Bryan Chodkowski, Interim City Manager

- E. An Ordinance Approving Individual Assessments Amounts And Directing The Director Of Finance Or His/Her Designee To Certify The Amounts To The Applicable County Auditor For Collection, And Declaring An Emergency. (first reading)

Mr. Chodkowski said this legislation represents \$17,000.00 worth of property maintenance charges.

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

- F. A Resolution To Approve The Sale Of Property To Tri-Cities North Regional Wastewater Authority Under Certain Terms And Conditions). (first reading)

Mr. Chodkowski said this item is for the sale of 17 acres of property comprised of six parcels which were formerly the City's well field. He said City Staff recommended Council authorize the sale to Tri-Cities Wastewater Authority for \$1 for each parcel to allow Tri-Cities to expand its facility in the future.

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

Mr. Shaw moved to adopt; Mrs. Byrge seconded the motion. On a call of the vote, Mr. Shaw, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mrs. Kitchen, and Mr. Webb voted yea; none voted nay. The motion passes 7-0.

- G. A Resolution Authorizing The City Manager To Execute Leases For 6037 Brandt Pike And 6067 Brandt Pike, Huber Heights, Ohio. (first reading).

Mr. Chodkowski said this resolution authorizes the execution of leases for 6037 and 6067 Brandt Pike as was discussed with Council in Executive Session on May 17, 2022.

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

Mrs. Byrge moved to adopt; Mr. Shaw seconded the motion. On a call of the vote, Ms. Baker, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mrs. Kitchen, Mr. Webb, and Mr. Shaw voted yea; none voted nay. The motion passes 7-0

- H. A Resolution Authorizing The City Manager To Solicit, Advertise And Receive Bids From Qualified Firms For The East Water Main Extension Project. (first reading).

Mr. Chodkowski said this legislation is to authorize the solicitation of bids for the extension of the water main northeast on Bellefontaine Road to service Center Point 70, making the City the water service provider for that area and replacing Clark County.

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Mrs. Byrge moved to adopt; Ms. Baker seconded the motion. On a call of the vote, Mr. Campbell, Mrs. Byrge, Mr. Otto, Mrs. Kitchen, Mr. Webb, Mr. Shaw, and Ms. Baker voted yea; none voted nay. The motion passes 7-0.

- I. A Resolution Declaring Certain City Property As No Longer Required For Municipal Purposes As Surplus And Authorizing Disposal Of Said Property. (first reading)

Mr. Chodkowski said this legislation authorizes City Staff to begin the release and sale of City vehicles that are being replaced by the Enterprise Fleet Management Program.

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

Mr. Otto moved to adopt; Mr. Webb seconded the motion. On a call of the vote, Mrs. Byrge, Mr. Otto, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, and Mr. Campbell voted yea; none voted nay. The motion passes 7-0.

13. City Official Reports and Comments

Mr. Otto said his son just got married over the weekend, and he is proud and happy. He wished Mr. Shaw a Happy Birthday. He said he would not be able to attend the City Council Emergency Meeting tomorrow night as his youngest son is on leave and he has plans.

14. Executive Session

There was no need for another Executive Session.

15. Adjournment

Mayor Gore adjourned the Regular Session City Council Meeting at 9:18 p.m.


Clerk of Council


Date


Mayor


Date