

RECORD OF PROCEEDINGS

Huber Heights City Council

Minutes of

Meeting

GOVERNMENT FORMS & SUPPLIES  
In Council Chambers

Held 6131 Taylorsville Road July 11, 2022

1. Call The Meeting To Order - Mayor Jeff Gore

The Huber Heights City Council met in a Regular Session on July 11, 2022. Mayor Jeff Gore called the meeting to order at 6:01 p.m.

2. Invocation - Pastor Jon Strifler Of The First Christian Church At 6114 Fishburg Road, Huber Heights, Ohio

3. Pledge Of Allegiance

4. Roll Call

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

Absent: Glenn Otto

Mr. Lyons moved to excuse Mr. Otto's absence; Mr. Shaw seconded the motion. On a call of the vote, Mr. Lyons, Mrs. Kitchen, and Mr. Shaw voted yea; Ms. Baker, Mr. Campbell, Mrs. Byrge, and Mr. Webb voted nay. The motion fails 3-4.

5. Approval Of Minutes

- A. City Council Meeting Minutes - June 27, 2022
- B. City Council Special Meeting Minutes - June 29, 2022

6. Special Presentations/Announcements

There were no Special Presentations.

7. Citizens Comments

There were no Citizens Comments.

8. Citizens Registered to Speak on Agenda Items

Clerk of Council Anthony Rodgers said one person is registered to speak on Item 11-B.

9. City Manager Report

Interim City Manager Bryan Chodkowski said on Thursday, July 14, 2022, from 10:00 a.m. to 11:30 a.m., residents can enjoy a cappuccino with a first responder at the Huber Heights Library. He said that same day is a radio discount day at the Kroger Aquatic Center, and guests who arrive between 2:00 p.m. and 4:00 p.m. will only pay \$4.00 admission and will receive a free bottle of water and a gift compliments of Kroger. He said this Friday is a free summer movie night and Encanto is the featured film. He said the movie will be shown at Thomas Cloud Park and will be drive-in style. He said registration for the upcoming crime prevention academy is open and will be held on



## Huber Heights City Council

## Meeting

GOVERNMENT FORMS & SUPPLIES 844-234-8338 FORM NO. 16118

Held 6131 Taylorsville Road July 11, 20 22

**10.**

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 10; And Repealing Ordinances And Resolutions In Conflict Therewith.  
(second reading)

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

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

- B. A Resolution Declaring It Necessary To Improve Public Streets And Easements In Section 2 - Phase 5 And Section 7 - Phase 5 By Constructing And Installing Certain Public Infrastructure Improvements, Including Street Improvements, Subbase, Concrete Curb/Gutter With Drainage, Asphalt, Street Lights And Signs, Sidewalk, Survey Work And Engineering, And In Each Case, All Other Costs And Improvements Necessary And Appurtenant Thereto.  
(second reading)

Mr. Chodkowski said this item is a holdover from a previous meeting for Council to be provided additional clarity. He said this matter is relative to the developer utilizing its funds to build this infrastructure and the City being a collection mechanism for the repayment of those funds via a special assessment process.

Mr. Rodgers said there was an amendment to this item based on the discussion at the Council Work Session. He said the motion would be to amend this resolution with the substitute resolution in the meeting packet that addresses some concerns that were raised.

Mrs. Kitchen moved to amend the resolution with the substitute resolution; Ms. Baker seconded the motion. On a call of the vote, Mrs. Byrge, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, and Mr. Campbell voted yea; Mr. Lyons voted nay. The motion passes 6-1.

Mrs. Byrge moved to adopt; Mr. Webb seconded the motion. On a call of the vote, Mrs. Kitchen, Mr. Webb, Mr. Shaw, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; Mr. Lyons voted nay. The motion passes 6-1.



## Huber Heights City Council

## Meeting

Held 6131 Taylorsville Road

July 11, 2022



RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES 8-00224-3338 FORM NO. 10148
In Council Chambers

Held 6131 Taylorsville Road July 11, 20 22

for the City, and to the Mayor to be efficient in running meetings and casting tie breaking votes if needed. She said she cannot imagine an employer finding it acceptable for employees to no call, no show or walk out in the middle of a shift. She said that action would come with consequences. She said anyone who tries to justify these actions as being acceptable has lost touch with their role as an elected official.

On a call of the vote, Mr. Lyons, Mrs. Kitchen, and Mr. Shaw voted yea; Ms. Baker, Mr. Campbell, Mrs. Byrge, and Mr. Webb voted nay. The motion fails 3-4.

- C. A Resolution To Appoint Gerald Smith To The Position Of City Manager Of The City Of Huber Heights. (first reading)

Mayor Gore said there was no Council Work Session recommendation as this item was just added to the agenda.

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

Mr. Lyons said with the final four candidates, he felt Mr. Smith was the most qualified in two categories, City Manager experience and breadth of education. He said he hopes the City Council appoints Mr. Smith as the next City Manager of Huber Heights.

On a call of the vote, Mr. Lyons, Mrs. Kitchen, and Mr. Shaw voted yea; Mr. Campbell, Mrs. Byrge, Mr. Webb, and Ms. Baker voted nay. The motion fails 3-4.

- D. A Resolution To Appoint Richard Dzik To The Position Of City Manager Of The City Of Huber Heights. (second reading)

Mayor Gore said there was no Council Work Session recommendation for this item.

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

Mr. Lyons said with Items 11-D and 11-E on the agenda, with this City Manager search, after plenty of reflection on what has been said by all Councilmembers and Mayor Gore, he thinks it is necessary to restart the process from scratch because of the controversy this process has had. He said a fresh start and going back to the basics would be best for Council. He said he will be voting no for that reason.

Mayor Gore said it was this Council who brought forward these four names as qualified individuals. He said it was Council who said these individuals were the top four picks, so he is not sure what the controversy is about.

On a call of the vote, Mrs. Byrge, Mr. Webb, Ms. Baker, and Mr. Campbell voted yea; Mr. Lyons, Mrs. Kitchen, and Mr. Shaw voted nay. The motion fails 4-3.

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



RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES COUNCIL CHAMBERS

In Council Chambers

Held 6131 Taylorsville Road

July 11, 2022

Mayor Gore said there was no Council Work Session recommendation for this item.

Mr. Campbell moved to adopt; Mrs. Byrge seconded the motion.

Mr. Campbell said he had asked Mr. Rodgers to read an email from BakerTilly dated May 11, 2022. He said there has been a lot of controversy around this candidate.

Mr. Rodgers read the email from Ms. Patty Heminover of Baker Tilly regarding the qualifications of the candidates.

Mr. Campbell said it does not appear John Russell will be appointed City Manager, but as a City employee, he thinks John Russell is one of the best the community has ever seen. He said he has been a City employee for over two decades, and out of all the applicants on the long and short list, he was the only applicant that would not have had to move here. He said Huber Heights is Mr. Russell's home.

Mr. Campbell asked Mr. Chodkowski, after City Staff interviewed all four candidates, who was the pick of the City Staff?

Mr. Chodkowski said Mr. Russell was the preferred candidate based on his commitment to the City not only as an employee but also as a resident, his extensive involvement as a board member of the YMCA, having been an adjunct professor at Sinclair College for the Fire and EMS academy. He said Mr. Russell represented the best skill set necessary to advance the City forward.

Mrs. Byrge said Mr. Russell has the respect of the people in this community already, and he knows the operation of the community. She said he had received lots of awards. She listed many more reasons and added that John Russell is the only candidate that has served on both sides of the labor table. She said you cannot put a price on the experience he brings.

At Mr. Webb's request, Mayor Gore reviewed again, in this meeting, the ISO certification the Fire Division recently received.

Mr. Webb said John Russell brought forward an action plan regarding employee evaluations and a system for following through. He encouraged Council to vote for what is right for the City.

Ms. Baker said Mr. Russell is a member of the community, and he would fight hard for the City.

On a call of the vote, Mr. Webb, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; Mr. Lyons, Mrs. Kitchen, and Mr. Shaw voted nay. The motion fails 4-3.

Mayor Gore said at this point, Council had decided not to start the process over and not to hire a City Manager. He asked Mr. Rodgers to add to the next Council Work Session agenda an item to change the organizational chart to allow Mr. Chodkowski to hire an assistant.

- F. A Motion To Amend Section II - Meetings - (M) Attendance, Absences And Removals Of The 2022 Rules Of Council As Attached.







RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES 9-00234-2326 FORM NO. 10/148  
In Council Chambers

Held 6131 Taylorsville Road July 11, 20 22

would have hired a City Manager. He said the City does not have a City Manager because Glenn Otto decided not to show up.

On a call of the vote, Mr. Webb, Ms. Baker, Mr. Campbell, and Mrs. Byrge voted yea; Mrs. Kitchen, Mr. Shaw, and Mr. Lyons voted nay. The motion fails 4-3.

- G. A Resolution Affirming The Adoption Of Resolution No. 2021-R-6960 Directing The City Manager To Solicit Qualifications From Firms To Conduct A Community Needs Assessment.  
(first reading)

Mr. Rodgers said at the Council Work Session, it was decided to place a community needs assessment for the Culture and Diversity Citizen Action Commission on the agenda. He said a draft has been worked through with City Staff and the commission.

Mayor Gore said it is his understanding that Mr. Chodkowski has a meeting scheduled for Wednesday morning with members of the Culture and Diversity Citizen Action Commission.

Mr. Chodkowski said the meeting on Wednesday is regarding the Citizens Review Board. He said based on the final draft submitted by the commission on Friday, this Request For Qualifications (RFQ) is ready to be released to the public as soon as this legislation is approved.

Mrs. Byrge recommended moving this item forward to another reading. She said she ran this back by the Regional Equity Initiative Project Manager from the Miami Valley Regional Planning Commission (MVRPC) for his feedback. She said she would provide the feedback and then invited the commission and the City Manager to sit down with this gentleman to discuss how to better frame the RFQ language. She said the requirements for deliverables are not well spelled out. She read the comments and recommendations provided by the MVRPC. She said she would provide the email and point of contact information to the commission and to Mr. Chodkowski.

Mr. Chodkowski said some of his concerns with respect to the broad scope are similarly matched. He said if Council would like for City Staff and the commission to set up a meeting with the gentleman from MVRPC, he would be happy to do so.

Mrs. Byrge said it is important for the commission to meet with MVRPC and come back and brief Council on what the framework will be for the community needs assessment. She said she would like to move this item to another reading until that meeting is held, and further discussion can be had to come up with a finite plan.

Mayor Gore said the recommendation at the Council Work Session was to adopt this item, and he said Mrs. Byrge is recommending moving this item to another reading to allow more time for input. He asked for input from the other Councilmembers.

Ms. Baker said she would like to hear the input from MVRPC.

Mr. Webb said Mrs. Byrge brought up some valid points, and Council needs to delve into this matter a little further.



## Huber Heights City Council

## Meeting

Held 6131 Taylorsville Road

July 11, 2022

Aaron Sorrell said this was a difficult case and a difficult decision for the Planning Commission. He said he gave the Clerk of Council a copy of the standards for approval for Council. He said this is a 5 acre parcel zoned Agricultural, the existing land use is Residential, and the surrounding property is zoned Agricultural. He said the applicant is requesting a replat of 3.5 acres and a rezoning to Planned Industrial (PI) to accommodate an existing business. He said the site is near the intersection of Taylorsville Road and New Carlisle Pike. He said there is some Industrial zoning at the intersection and north of the intersection. He said this action would require a dedication of right-of-way along Taylorsville Road consistent with the thoroughfare plan. He said the applicant has been operating this repair business for a little over ten years. He said in August, 2021, there was a complaint that led to zoning enforcement action. He said the pictures are from when that action took place. He said most of those trucks have been moved. He said the applicant requested a use variance, and the Board of Zoning Appeals (BZA) unanimously denied the variance. He said City Staff informed the applicant that they could apply for a lot split and rezoning. He discussed the applicable



RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES 9-0254-9326-01 (MAY 14, 2014)

In Council Chambers

Held 6131 Taylorsville Road July 11, 20 22

zoning standards. He said the residential lot is nonconforming in frontage. He said the use is permitted and conforming, and there is no public water or sewer. He said City Staff is assuming no improvements are planned, and the record plan survey on May 4, 2022, will serve as the Basic Development Plan. He said the use is principally permitted within the Planned Industrial District, and if the rezoning is approved, the applicant will be required to move his repair operations indoors. He said the site is not visible from the street and violations would likely be triggered by complaints from adjacent property owners. He said there are twelve conditions that should be satisfied for the Planning Commission or Council to recommend rezoning approval. He said the proposed rezoning is not consistent with the comprehensive plan. He said Taylorsville Road is classified as a major thoroughfare. He continued with his analysis and discussed the complaints listed in the BZA minutes. He said limiting the hours of operation may reduce the impact of the facility on neighboring residents. He said residents get drinking water from private wells, and the concern about groundwater pollution should not be overlooked. He said the rezoning does not meet the standards outlined and City Staff recommended denial. He said City Staff provided a set of acceptable conditions if the Planning Commission was inclined to recommend approval. He said concern was expressed by the owner of the farm behind this property regarding whether this rezoning will lead to additional Industrial rezoning. He said there was a lot of discussion at the Planning Commission meeting with a 4-1 vote to deny the rezoning request. He said if Council determines this rezoning request is consistent with standards, he recommended several conditions and he listed those conditions.

Mr. Lyons asked if the Council would be voting on this item tonight?

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

Mr. Lyons asked Mr. Sorrell, if Council turns this request down, what would be the process for the property owner?

Mr. Sorrell stated the City would resume enforcement actions on the illegal vehicle repair business and the case would go to Common Pleas Court. He said it would have been easier if the BZA had approved a variance. He said a strict interpretation of the Zoning Code does not allow a use variance. He said that being said, things are granted all the time that are not fully in compliance. He said the rezoning is the last option under the City Code.

Mr. Lyons asked if this request is turned down, is there something the Economic Development Department might be able to do to help Mr. Skilweis find an affordable location in Huber Heights or would the City be able to have some type of timetable to give Mr. Skilweis a reasonable amount of time to do that?

Mr. Chodkowski said City Staff could be made available to assist Mr. Skilweis. He said if unable to do that, City Staff would approach the Skilweis' to find out how much time they need to relocate and calibrate the compliance plan around that decision.

Mayor Gore asked if any representative of Michael Skilweis had any comments.

Mr. Skilweis said both of the neighbors who are complaining own businesses that they are not zoned for. He said he runs a mobile diesel repair business, and most of the work is done offsite. He said there are no oil changes or



## Meeting

July 11, 2022



RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES COUNCIL PRINTING

In Council Chambers

Held 6131 Taylorsville Road July 11, 2022

Ms. Cindy Rosengarten said she lives just to the west of the property. She said this business has been going on for ten years in violation of the Zoning Code, and she has a hard time understanding how it went on this long, being out of compliance with regulations. She said if the zoning goes to Planned Industrial, she has concerns about the potential impact on property values in the neighborhood, potential environmental impacts on the water, emissions, and how this business would be monitored if it is in violation. She said she strongly opposes the lot split and the rezoning.

Mayor Gore asked if there was anyone else present to speak against the approval of this issue.

Seeing none, Mayor Gore asked if there was any member of City Council to make or provide additional information.

Seeing none, Mayor Gore asked one last time if there was anyone to speak in favor of or against the approval of this zoning case.

Mrs. Skilweis said Mrs. Rosengarten's husband runs a woodworking business out of his outbuilding, has a commercial dumpster, and has a large work truck that he takes to and from work every day. She said the Goodspeed's are running a bed and breakfast from a yurt built in the far back of their very wooded property where there is no access for fire and EMS services. She said the Goodspeed's are in need of a rezoning, but they have an issue with this rezoning request. She said they have offered to hide everything and put buffering up. She said per the log she showed Council, there is not that much work happening there and the work is by appointment only.

Mayor Gore said Ms. Rosengarten asked how this issue has gone on for ten years. He said there are approximately 16,500 residences in the City of Huber Heights, and it is impossible for the Zoning officials to know what is happening in all of the homes. He said the Zoning Division is typically complaint driven, and from what he understands, if Zoning officials are driving down Taylorsville Road, they cannot see what is happening on that property. He discussed the zoning process. He said the Zoning Code specifically deals with running a business out of a home and, in fairness, City Staff needs to be consistent and if there is another business being run out of an adjacent property, then the Zoning Division needs to get involved to look at those situations. He said this seemed like an issue of tit-for-tat between neighbors, and he is frustrated it has been nine years and no one has come to Council to try to find a resolution. He said he is really frustrated if there are two businesses being run right beside this particular business when the City Code deals with running and operating a business out of a home. He said the City had just dealt with a zoning issue with a window tinting company on Jonetta Street where the Zoning Division shut it down and made the business move. He said this matter is not just the zoning issue, it is also about running a business out of a home. He said the City Code is pretty clear about not running a business out of a home. He said City Staff needs to look into the neighbors running a business out of their homes as well, because that is also against the City Code. He said the Council Work Session recommendation was to move this item on to a second reading. He encouraged Council to drive by and take a look and to find out all of the facts of what is going on before voting to put someone out of business and make them move out of the City.

Mayor Gore said, barring further comments, this Public Hearing of the City Council for Planning Commission Case RZ 22-17 is hereby closed.



RECORD OF PROCEEDINGS

Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES 8-10024-2228, 5/11/04, 10/14/08

In Council Chambers

Held 6131 Taylorsville Road

July 11, 20 22

ADMINISTRATION

Bryan Chodkowski, Interim City Manager

- I. An Ordinance To Approve A Rezoning From Agricultural (A) To Planned Industrial (PI) And A Lot Split For The Property Located At 9416 Taylorsville Road And Further Identified As Parcel Number P70 03902 0018 On The Montgomery County Auditor's Map And To Not Accept The Recommendation Of The Planning Commission (Case RZ 22-17).  
(first reading)

Mr. Shaw asked what options this Council has on this matter. He said in previous times, Council has sent items back to the Planning Commission and BZA for additional review. He asked if Council had an opportunity to table this item and send it back for review for a variance.

Mr. Rodgers said this case has been through those processes already. He said the Planning Commission has made a recommendation and Council can either accept or overrule that recommendation which, as Mr. McDonald stated earlier, would require a supermajority vote of six members of Council to overrule the Planning Commission decision.

Mayor Gore said one of the things the neighbors are complaining about is the future. He asked if conditional zoning can be passed on this property where, if it is sold, it goes back to Agricultural zoning.

Mr. McDonald said once action is taken to change the zoning, it would require further action to revert the zoning.

Mayor Gore asked Mr. Sorrell, if approved, are the conditions that have been set strong enough to prevent another type of business from being louder, more dangerous, and more worrisome than what this particular business is, where the owner would have to come back for a Major Change.

Mr. Sorrell said since the Planning Commission recommended denial, there are no conditions associated with the PUD. He said if Council is leaning toward that direction, he would recommend a chance to rewrite the ordinance with certain conditions that become the PUD standards. He said the seven conditions he outlined with more detail are probably adequate with also restricting the use to a specific type. He said an item came up regarding inspections, and this matter was not on the Fire Division's radar. He said this business on the Fire Division's radar would trigger yearly inspections.

Mr. Webb said there was no Fire Division recommendation in the meeting packet.

Mr. Sorrell said he reached out to the Fire Division to see if this business was regularly inspected, and the Fire Division did not know about the business. He said since there are no improvements being made to the property, there is nothing that would trigger additional compliance with the Fire Code.

Mr. Webb said, regardless of what has happened for ten years on the property, Council is being asked to look at this business as a new business.

Mr. Sorrell said going with Planned Industrial instead of an I-1 or I-2 district provides the opportunity for City Staff to focus on the uses.



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Minutes of

Huber Heights City Council

Meeting

GOVERNMENT FORMS & SUPPLIES  
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Held 6131 Taylorsville Road July 11, 20 22

~~After discussion, Mayor Gore said this item would move to the next Council Work Session and on to a second reading at the next City Council Meeting.~~

- J. A Resolution Authorizing The City Manager To Execute A Lease For 6053 Brandt Pike.  
(first reading)

Mr. Chodkowski said this item is to affirm the lease for Dogtown to continue to facilitate the redevelopment at the former Marian Meadows property.

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

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

- K. A Resolution Amending Resolution No. 2022-R-7130 Regarding Certain Surplus Property.  
(first reading)

Mr. Chodkowski said this legislation allows the City to reshuffle the current vehicle fleet to make sure the most productive vehicles are on the road.

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

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

12. City Official Reports and Comments

Mrs. Kitchen said Council had talked about the depletion of bottled water at the St. Peter's food pantry. She said if citizens want to donate bottled water, there is a room at Otto Insurance where water can be stored if citizens have water main breaks. She thanked Mr. Chodkowski for meeting with her on Hubbard Drive. She said she hopes the City makes it a major priority to get some of the water lines replaced.

13. Executive Session

Mayor Gore said there is a need to go into Executive Session this evening.

Mr. Rodgers said the motion is to go into Executive Session for discussion with an attorney for the City concerning disputes that are the subject of pending or imminent court action.

Ms. Baker moved to enter into Executive Session for discussion with an attorney for the City concerning disputes that are the subject of pending or imminent court action.; Mrs. Byrge seconded the motion. On a call of the vote, Mr. Campbell, Mrs. Byrge, Mrs. Kitchen, Mr. Webb, Mr. Shaw, and Ms. Baker voted yea; Mr. Lyons voted nay. The motion passes 6-1.

Council entered Executive Session at 7:57 p.m. Council returned from



## Huber Heights City Council

## Meeting

PLIFFS 814-254-3338 FORM NO. 10119

6131 Taylorsville Road

July 11, 2022

There were no actions taken by Council following the Executive Session.

**Adjournment.**

Anthony C. Ressler

Date \_\_\_\_\_

Mayor

Date \_\_\_\_\_