Held SEPTEMBER 1, 2020

## MINUTES OF PERRYSBURG CITY COUNCIL

## MEETING HELD SEPTEMBER 1, 2020

Mayor Mackin called the meeting to order at 6:30 p.m. Present at the meeting were Council Members Deborah Born, Cory Kuhlman, Jan Materni, Jim Matuszak, Jonathan Smith, and Barry VanHoozen. Tim McCarthy was present via teleconferencing. Also present were Bridgette Kabat, City Administrator, Laura Alkire, Law Director, and David Creps, Clerk of Council.

Mr. Smith moved to amend and approve the minutes of the August 18, 2020 meeting to remove "Born" from the Ayes vote, and replace it with "Matuszak" from the third paragraph under the August 10, 2020 public hearing and to dispense with their reading. Seconded by Mr. Matuszak. Ayes: (7). Nays: (0).

### SPECIAL REPORTS

None.

### LETTERS, COMMUNICATIONS, AND CITIZENS' CONCERNS

Ray Jeffers, stated that his building had been recently struck by lightning, and that in his attempt to repair the leaky roof that he was contacted by the City today. He stated that he had put the structure back the way that it was, and that Cody Grodi, Zoning Inspector, said that he needed to have the repairs approved by the Historic Landmarks Commission. Mr. Jeffers referenced Chapter 1245.47, and asked for further resolution in conjunction from the City.

Mayor Mackin thanked Mr. Jeffers for bringing this to their attention, and apologized for the damage to the building. He stated that Ms. Alkire would be the best person to respond. Ms. Alkire added that she spoke with Mr. Grodi today regarding the incident, and that she would review the code section that Mr. Grodi had referenced. She added that she will update Council with a resolution and respond to Mr. Jeffers tomorrow.

### ADMINISTRATIVE REPORTS

#### Mayor's Report

No report.

#### City Administrator's Report

Ms. Kabat stated that this week Council will be receiving the Mayor's proposed 2021 budget in hard copy and electronically.

#### Finance Director's Report

No report.

**Law Director's Report**

Ms. Alkire briefly addressed Ordinance 7-2020 regarding the Designated Outdoor Refreshment Area (DORA), and stated that tonight she has provided Council with two documents, one that references proposed amendments that are discussion points, and an amended map for Council to review and discuss. Ms. Alkire referenced the proposed changes to the DORA map, based on Mr. Kuhlman's request that the map be extended down W. Second Street, to include TRV FIT and the public restrooms. Ms. Alkire noted the amendment to Section 7 regarding the DORA cups, and limiting the size to a maximum of 16 ounces. She addressed the amendment to Section 8 regarding an annual review from the City. Mr. Matuszak referenced the "legal entity" language from Section 8, and there was a brief discussion. Ms. Alkire reviewed the procedural options of the readings and introduction of the ordinance, and noted to Council that the ordinance has been drafted as an emergency measure. She reminded Council that the DORA signage will need to be reviewed by the Historic Landmarks Commission.

**President of Council Report**

No report.

Mr. Smith introduced **ORDINANCE 7-2020 CREATING A DESIGNATED OUTDOOR REFRESHMENT AREA FOR DOWNTOWN PERRYSBURG AND ENACTING REGULATIONS AND DECLARING AN EMERGENCY** and moved to allow for its reading by number and title only and to dispense with the third reading. Seconded by Mr. VanHoozen. Ms. Born read a prepared statement regarding her vote. Ayes: Kuhlman, Materni, Matuszak, McCarthy, Smith, and VanHoozen (6). Nays: Born (1). The Clerk read Ordinance 7-2020 by number and title only. Mr. Smith moved that Ordinance 7-2020 be passed. Seconded by Mr. VanHoozen. Ms. Born read a prepared statement regarding her "no" vote for the DORA. Mr. Kuhlman asked for signage location clarification to the amended map, and stated that he supports the DORA. Mr. Smith proposed to discuss the DORA in general, and then Council make individual motions per amendment to the ordinance. Ms. Born asked if there will be public discussion, and Mayor Mackin noted that public comment is not required for this reading, and that it is up to the discretion of Council. Mr. Kuhlman thanked the community for their response to the DORA, and added that with the legal concerns that he agrees that it does not need to be passed as an emergency. Mr. Matuszak referenced a letter from Chief Jones about the DORA, and suggested language be added to Section 8 regarding the maintenance of operations. Ms. Materni added that she agrees with Mr. Kuhlman's thoughts, and noted that the City has the right to revoke the DORA if they so wish. Mr. VanHoozen said that he agrees that the DORA should not be passed as an emergency, and added that he anticipates the amendment to Section 8. Mr. McCarthy referenced the "legal entity" portion of Section 8 whether it would be a corporation or a partnership, and added that it's not advisable to expand down Second Street. Mr. McCarthy voiced his opinion to allow for DORA signage on city poles in a tasteful manner.

Jon Orser, 125 E. Front Street, stated that the DORA will not help the other businesses, and referenced a petition that has circulated with fifty-nine signatures of residents that are not in favor of the DORA. Mayor Mackin noted that Council already has the referenced document, and Ms. Materni and Mr. McCarthy objected to the reading of the petition. Mr. Orser proceeded to read the petition of names.

Mayor Mackin asked Council if they wanted to continue to hear public comment, and Ms. Born said that she would like to hear all public comment. Mr. Kuhlman noted that emails previously received from the public have been read, and that he would appreciate that there be no hearsay moving forward. Mayor Mackin addressed Mr. Orser and stated that outbursts directed towards Council are unacceptable conduct in a public setting, and asked that Mr. Orser refrain from outbursts of such kind, out of courtesy and respect.

Mike Cousino, Cousino Restoration, 26901 Eckel Road, stated his concerns with the DORA with regards to COVID-19 and the issue of an increase in liability.

Zach McKenna, 125 E. Seventh Street, stated that he wanted to hear Mr. Orser's comments and referenced the Ohio Revised Code. He said that there is a lack of public information available to the public regarding the DORA, and Mayor Mackin asked if he had made a public records request for his petitions. Mayor Mackin then confirmed that the City will gather those documents that he has requested.

Ray Jeffers, Ray's Service Center, 228 Louisiana Avenue, stated that he has concerns with beer bottles in his lot, and that the safety liability and sanitation needs to be addressed with regards to the DORA.

Mr. Matuszak suggested that motions to proposed amendments of the DORA be made individually per amendment, then discussion, and roll call.

Mr. Kuhlman introduced a proposed amendment to the DORA map to include Second Street and specifically TRV FIT at 117 E. Second Street. He referenced the public comment heard from Matt Temby, Owner of TRV FIT, at the public hearing on August 10, 2020. Mr. Kuhlman made a motion to amend Exhibit A to include Second Street down to TRV FIT, and the public restrooms. Seconded by Mr. Matuszak. Ms. Born stated that she will not be voting in favor of the amendment to the map, adding that it does not benefit the nearby homes. There was a brief discussion about the benefits of the DORA related to the map. Mr. VanHoozen noted that the public restrooms on E. Second Street are not serviced on the weekends. Ms. Kabat stated that it would be acceptable for the "legal entity" to pay for the overtime needed for the sanitation of the public restrooms on E. Second Street. Ayes: Kuhlman, Materni, and Matuszak (3). Nays: Born, McCarthy, Smith, and VanHoozen (4).

Mr. Matuszak introduced a proposed amendment to Section 8, and made a motion to amend the language in Section 8 to read: "Prior to the commencement of the DORA, applicants shall create a corporation or limited liability company responsible for DORA activities including, but not limited to the placement, maintenance and replacement of signage, purchase of DORA authorized containers, acquisition of liability insurance coverage, monitoring of safety and sanitation operations, and the maintenance of the same in cooperation with City Administration. City Council shall review the requirements of the DORA, as established herein, one year from the effective date of the Ordinance, to determine whether to continue the DORA under the same or modified terms and conditions, or to dissolve it according to statutory provisions." Seconded by Mr. Smith. There was a brief discussion about the "legal entity" language. Ayes: Kuhlman, Materni, Matuszak, McCarthy, Smith, and VanHoozen (6). Nays: Born (1).

Mr. Smith introduced a proposed amendment to Section 7, and made a motion to amend the language in Section 7 to read: "As is required by Section 4301.82(F)(1)(g) of the Ohio Revised Code, beer and intoxicating liquor shall only be served in plastic bottles or other plastic containers, which are no larger than sixteen (16) ounces, shall be provided by the qualified permit holders in a readily-identified container that identifies the name of the establishment that is serving the beverage, as approved by the City's Police Department." Seconded by Ms. Materni. Ayes: Kuhlman, Materni, Matuszak, McCarthy, Smith, and VanHoozen (6). Nays: Born (1).

Mr. Smith asked Mr. McCarthy if he was interested in proposing an amendment to some of the language in Section 3 regarding signage. Mr. McCarthy made a motion to strike the language that reads "signage shall not be located on City owned poles" in Section 3. Seconded by Mr. Smith. Ms. Alkire addressed Council, and stated that this amendment is currently prohibited in the ordinances regarding signage on City owned poles. There was a brief discussion regarding Ordinance 1250.31(b) in relation to this proposed amendment and regarding the "legal entity". Ayes: Kuhlman, Materni, Matuszak, McCarthy, Smith, and VanHoozen (6). Nays: Born (1).

Mr. Matuszak read a prepared statement, a copy of which is attached hereto and made a part of these minutes.

Ayes: Kuhlman, Materni, McCarthy, Smith, and VanHoozen (5). Nays: Born and Matuszak (2).

## COMMITTEE REPORTS

### Finance and Economic Development Committee:

No report.

Next meeting: Tuesday, September 8, 2020 at 5:30 p.m.

Mr. Matuszak introduced **ORDINANCE 10-2020 AMENDING ORDINANCE 3-2020 TO AMEND APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES FOR THE YEAR BEGINNING JANUARY 1, 2020 AND ENDING DECEMBER 31, 2020 AND DECLARING AN EMERGENCY** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. Smith. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0). The Clerk read Ordinance 10-2020 by number and title only. Mr. Matuszak moved that Ordinance 10-2020 be passed as an emergency. Seconded by Mr. Smith. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0).

### Service Committee:

Ms. Materni gave her report of the August 26, 2020 meeting, a copy of which is attached hereto and made a part of these minutes.

Next meeting: Wednesday, September 10, 2020 at 6:30 p.m.

Ms. Materni introduced **ORDINANCE 11-2020 ACCEPTING ROADS, ALLEYS, AND GREEN SPACE PER CODIFIED ORDINANCE 1295.07 AND DECLARING AN EMERGENCY** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. Matuszak. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0). The Clerk read Ordinance 11-2020 by number and title only. Ms. Materni moved that Ordinance 11-2020 be passed as an emergency. Seconded by Mr. Matuszak. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0).

Ms. Materni introduced **RESOLUTION 39-2020 ACCEPTING THE BID AND AUTHORIZING AN AGREEMENT WITH CARGILL, INCORPORATED FOR WINTER ROAD SALT FOR THE 2020-2021 SEASON** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. Smith. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0). The Clerk read Resolution 39-2020 by number and title only. Ms. Materni moved that Resolution 39-2020 be passed. Seconded by Mr. Smith. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0).

Ms. Materni introduced **RESOLUTION 40-2020 ACCEPTING THE BID AND AUTHORIZING AN AGREEMENT WITH CENTURY EQUIPMENT FOR THE PURCHASE OF A SLOPE MOWER IN THE AMOUNT OF THIRTY-NINE THOUSAND SEVENTY-SEVEN DOLLARS AND 50/100 ($39, 077.50) AND DECLARING AN EMERGENCY** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. Smith. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0). The Clerk read Resolution 40-2020 by number and title only. Ms. Materni moved that Resolution 40-2020 be passed as an emergency. Seconded by Mr. Kuhlman. Ms. Born stated that a contract is a contract, and that she will be not be voting in favor. Ayes: Kuhlman, Materni, Matuszak, Smith, and VanHoozen (5). Nays: Born (1).

Ms. Materni introduced **RESOLUTION 41-2020 AMENDING RESOLUTION 5-2020 AND AUTHORIZING CHANGE ORDER NUMBER TWO TO THE AGREEMENT WITH GERKEN PAVING IN AN AMOUNT NOT TO EXCEED SEVENTY-TWO THOUSAND NINE HUNDRED FORTY-TWO DOLLARS AND EIGHTY-THREE CENTS ($72, 942.83) FOR A TOTAL AGREEMENT AMOUNT OF ONE MILLION FIVE HUNDRED SIXTY-ONE THOUSAND SIX HUNDRED FIFTY-THREE DOLLARS AND EIGHTY-FIVE CENTS ($1,561, 653.85) AND DECLARING AN EMERGENCY** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. Smith. Ayes: Kuhlman, Materni, Matuszak, Smith, and VanHoozen (5). Nays: Born (1). The Clerk read Resolution 41-2020 by number and title only. Ms. Materni moved that Resolution 41-2020 be passed as an emergency. Seconded by Mr. Smith. Ms. Born stated that a contract is a contract, and that she will be not be voting in favor. There was a brief discussion that this contract was awarded under the old system. Ayes: Kuhlman, Materni, Matuszak, Smith, and VanHoozen (5). Nays: Born (1).

**<u>Safety Committee:</u>**

Mr. VanHoozen gave his report of the August 25, 2020 meeting, a copy of which is attached hereto and made a part of these minutes.

Next meeting: Tuesday, September 22, 2020 at 6:00 p.m.

**<u>Recreation Committee:</u>**

No report.

Next meeting: Tuesday, September 8, 2020 at 6:30 p.m.

**Planning and Zoning Committee:**

No report.

Next meeting: Thursday, September 10, 2020 at 5:30 p.m.

**Personnel Committee:**

Mr. Kuhlman gave his report of the August 25, 2020 meeting, a copy of which is attached hereto and made a part of these minutes.

Next meeting: Tuesday, September 22, 2020 at 5:00 p.m.

Mr. Kuhlman introduced **ORDINANCE 12-2020 AMENDING CODIFIED ORDINANCE 266.05-2 PREVISOULY AMENDED IN ORDINANCE 117-95 ON AUGUST 22, 1995 AND BY ORDINANCE 159-2006 ON AUGUST 1, 2006 AND BY ORDINANCE 158-2006 ON AUGUST 15, 2006 RELATING TO THE CALCULATION OF OVERTIME COMPENSATION** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. Matuszak. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0). The Clerk read Ordinance 12-2020 by number and title only. Mr. Kuhlman moved that Ordinance 12-2020 be passed. Seconded by Ms. Materni. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0).

**Public Utilities Committee:**

Mr. Smith gave his report of the August 26, 2020 meeting, a copy of which is attached hereto and made a part of these minutes.

Next meeting: Wednesday, September 23, 2020 at 6:30 p.m.

Mr. Smith introduced **RESOLUTION 42-2020 ACCEPTING THE PROPOSAL AND AUTHORIZING AN AGREEMENT WITH FISHBECK ENGINEERS IN AN AMOUNT NOT TO EXCEED SIXTY THOUSAND FIVE HUNDRED DOLLARS AND NO/100 ($60,500.00) TO PREPARE THE CAPITAL PROJECT PLANNING REPORT FOR THE WASTEWATER TREATMENT PLAN AND DECLARING AN EMERGENCY** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Ms. Materni. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0). The Clerk read Resolution 42-2020 by number and title only. Mr. Smith moved that Resolution 42-2020 be passed as an emergency. Seconded by Ms. Materni. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0).

Mr. Smith introduced **RESOLUTION 43-2020 ACCEPTING THE PROPOSAL AND AUTHORIZING AN AGREEMENT WITH ARCADIS US IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FORTY-NINE THOUSAND EIGHT HUNDRED FIFTY-FOUR DOLLARS AND 00/100 ($149,854.00) TO PREPARE THE WATER SYSTEM MASTER PLAN FOR THE CITY OF PERRYSBURG AND DECLARING AN EMERGENCY** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Mr. Matuszak. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0). The Clerk read Resolution 43-2020 by number and title only. Mr. Smith moved that Resolution 43-

2020 be passed as an emergency. Seconded by Mr. VanHoozen. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0).

Mr. Smith introduced **RESOLUTION 44-2020 AUTHORIZING THE CITY TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT PROGRAM; SPECIFICALLY, BY AUTHORIZING THE MAYOR TO TAKE ALL ACTIONS LEGALLY NECESSARY TO PREPARE AND SUBMIT AN APPLICATION FOR THE PROGRAM AND TO EXECUTE CONTRACTS AS REQUIRED AND DECLARING AN EMERGENCY** and moved to allow for its reading by number and title only and to dispense with the second and third readings. Seconded by Ms. Materni. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0). The Clerk read Resolution 44-2020 by number and title only. Mr. Smith moved that Resolution 44-2020 be passed as an emergency. Seconded by Mr. VanHoozen. Ms. Born asked if a grant will be used to complete the sanitary sewer rehabilitation project, and the location on Maple Street. Ms. Kabat stated that the City has applied for $175,000.00 funding through OPWC that would contribute towards an approximate $350,000.00 sewer lining project which spans the distance between Maple Street and Cherry Street. She added that if the funds are not awarded the project will still need to move forward to comply with the Ohio EPA. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0).

**OTHER BUSINESS**

None.

**ADJOURNMENT**
Mr. Smith moved to adjourn the meeting at 8:22 p.m. Seconded by Ms. Materni. Ayes: Born, Kuhlman, Materni, Matuszak, Smith, and VanHoozen (6). Nays: (0).

David D. Creps, Clerk Thomas G. Mackin, Mayor

City Council Meeting

Designated Outdoor Refreshment Area
September 1, 2020

The desire for a Designated Outdoor Refreshment Area has been a controversial issue in Perrysburg. City Council has heard from the City Administration, businesses located in Perrysburg, including those located within and outside the proposed geographic boundaries of the DORA, and from individuals residing within and outside the City of Perrysburg.

As I have previously stated, the proponents of a DORA have cited the positive economic impact it will have on the businesses located in and around the proposed site of the DORA and the attraction it will create luring people to the City of Perrysburg.

To-date, I have yet to hear anyone provide any financial/economic data, historical, prospective or otherwise, supporting the claim that the proposed DORA will have a positive economic impact for those proposing the DORA. I have specifically requested it, multiple times. Either it can't be done or those that could provide such information refuse to. Either way, the proponents of the proposed DORA have failed to support such a claim. City council members prematurely announced their support of the proposed DORA eliminating any reason for the proponents of the DORA to answer the questions the community is entitled to have answers to.

As to the alleged attraction the proposed DORA will become, we should each be asking ourselves what, as a city, we represent and what we want to become. This brings me to my philosophical reasons for opposing the proposed DORA – or as I'll call it, the "Designated Outdoor Adult Refreshment Area (DOARA)."

I think we can all agree that a good society is a society in which it is easy to be good. By that standard, and in light of the recent turmoil we have all been witnessing, our society is not as good as it should be. If we narrow our focus to just our community, and in the context of the proposed DORA, we need to ask ourselves why we would pass legislation that would make it easier to be bad? Every choice entails sacrifice. The choice to make it easier to be bad will make it harder to be good.

Some of us up here have liberal-leaning beliefs and others prefer more conservative beliefs. The former tend to focus primarily on promoting the common good while the latter tend to focus primarily on helping individuals make themselves better versions of themselves. Both are noble causes, but you can't build strong walls with weak bricks. The Pandemic has also been cited by some proponents of the proposed DORA as another reason for needing the DORA. The Pandemic is a rationalization for a DORA, not a reason. A DORA cannot be relied on to be the glue that holds this 2020 shit-show together.

I encourage my colleagues to vote no tonight, even if it is not the popular thing to do, but because it is the right thing to do.