

**UHRICHSVILLE CITY COUNCIL**  
**Thursday, December 10, 2020**

Council President Robert Cottrell called the meeting to order at 7:00 p.m.

ROLL CALL showed the following members present: Mr. Zucal-yes; Mr. Baker-yes; Mr. Miller-yes; Mr. Harmon-yes; Ms. Myers-yes; Mr. Huff-yes; Mr. Fox-yes.

The Pledge of Allegiance was led by Council Clerk Trisha Addison.

Council President Robert Cottrell asked for a motion to accept the Council Meeting Minutes from November 23, 2020. A motion was made Mr. Miller, seconded by Mr. Baker. ROLL CALL: Mr. Miller-yes; Mr. Baker-yes; Mr. Harmon-yes; Ms. Myers-yes; Mr. Huff-yes; Mr. Fox-yes; Mr. Zucal-yes.

**ADMINISTRATIVE REPORTS:**

**Mayor Mark Haney:**

- Asked for approval from Council to enter into yearly contract regarding gaming machines and gaming tickets with Moose Lodge 740. A Motion to enter into the contract was made by Ms. Myers, seconded by Mr. Miller. ROLL CALL: Ms. Myers-yes; Mr. Miller-yes; Mr. Huff-yes; Mr. Fox-yes; Mr. Zucal-yes; Mr. Baker-yes; Mr. Harmon-yes.
- Introduced the new K-9, Onyx, who has been training with Sgt. Hickman for a couple months. Sgt. Hickman spoke about Onyx and his training. He replaces, K-9 Recon who has a medical condition. January 8, 2021 is his certification date. Onyx was purchased solely using K-9 funds.
- Chief Beal and Sgt. Hickman and Onyx were recently involved in a drug raid in which 30 people were arrested. There was an article regarding the raid in the Times Reporter. Mayor Haney would like to have another dog in the future.
- There were 444 police calls last month and 121 fire calls with 58 transports in the city and 60 total transports.
- There is a Resolution before Council tonight regarding the 2021 insurance rates. Mayor Haney commended the Insurance Committee, President Cottrell, Auditor Pearch, and Steve Maxwell and Wes Miller from the Union Departments. It went really well and was very cordial. Auditor Pearch prepared the Resolution for approval tonight.
- Sgt. Hinds is retiring in February. Mayor and Civil Service Commission will be looking at entry test and a promotional test. Mayor Haney discussed the testing.
- Hazard pay was brought up to the Finance Committee. Mayor Haney asked for Council's input. The money will come from the CARE's Act money must be spent by December 31, 2020. Also considering buying an administrative vehicle. He would rather buy a brand new vehicle so we don't have the maintenance. That would be up to \$28,000.00 brand new. Presented Council with a vehicle list from all departments showing the vehicle and mileage. Also has a list of all personnel.
- Mill Township will be leaving the City of Uhrichsville for fire service. We will be getting rid of their vehicles. They will be going to Dennison. Found a brush truck to replace Mill Township's brush truck. Asked Council for the authority to spend up to \$15,000.00 to buy the brush truck. It is a used truck that we can probably get up to 10-12 years out of. The money would come out of the equipment fund. Mr. Fox asked if one of two pickups could be used to replace the brush truck. Mayor Haney said he wouldn't want to use a ¾ ton truck for brush. The brush trucks are a lot bigger and are built for off-road. Ms. Myers asked if CARE's act money could be used for the brush truck. There was discussion regarding the purchase of vehicles. Ms. Pearch described the CARE's Act money that was left. A Motion was made by Mr. Huff, seconded by Mr. Miller to

purchase a brush truck using CARE's Act money and spending up to \$15,000.00 for the purchase. ROLL CALL: Mr. Huff-yes; Mr. Miller-yes; Mr. Fox-yes; Mr. Zucal-yes; Mr. Baker-yes; Mr. Harmon-yes; Ms. Myers-yes.

- There was further discussion regarding the purchase of an administrative vehicle. Mr. Fox felt that CARE's Act money could be used towards other things. He doesn't feel the City needs it right now. Ms. Myers said that Finance Committee looked at it because when they looked at the mileage for the administration for the last year, they are trying to avoid paying \$2,000.00 to \$3,000.00 each and instead have them use a city vehicle. Then if we do hire a Building Inspector, that person could use this vehicle as well. He feels the money could be put towards the schools, to replace the water fountains or toilet flushes to benefit them. He feels the public could use the money also. Mr. Zucal thought it should be considered again in the next Finance Committee meeting. President Cottrell placed the issue back with the Finance Committee for further consideration.
- The issue of hazard pay was further discussed. It can be paid out of CARE's Act money. The employees that are proposed to receive: 9 police department, 9 fire department, 4 street department, 4 part-time and on-call, and Jen, the Mayor's assistant. President Cottrell asked that it go back to the Finance Committee for further consideration.
- Mayor Haney read a statement in response to President Cottrell's statement at the last meeting, a copy of which is attached hereto.

**City Services Director Belle Everett:**

- Her mother passed away Monday from COVID, but she has continued to work and has been available.

**Law Director James J. Ong:**

- Intends to present to Council a list of criminal cases for 2020 from Attorney Collins from County Court.
- Regarding hazard pay, the same amount should be paid to all city employees receiving full-time wages, the same amount across the board, which in his opinion would include the Mayor's secretary and the Service Director.
- Explained the tax levy that will be on the 2021 ballot and will have the initial ordinance to Council at the next meeting.
- Will be having an end of year/beginning of year work session with President Cottrell and Mayor Haney. Would like to have it one hour prior to a regular council meeting. It was decided that it would be done in January.

**Auditor, Julie Pearch:**

- Presented Council with the Temporary Appropriations Ordinance for consideration tonight.
- Will be taking early retirement at the end of February and Mayor Haney will be appointing a replacement. She thanked everyone for the years that she's been here.

**Treasurer, Bob Michels:**

- Absent.

**Correspondence:**

- None.

**Committee Reports**

**Mr. Fox** – Nothing to report.

**Mr. Huff** – Nothing to report.



**Ms. Myers-** Special Recognition/Special Contact Committee has decided to suspend recognition until COVID has been lifted.

The Finance Committee report from the December 7, 2020 meeting had been emailed to Council. A motion was made by Mr. Huff, seconded by Mr. Zucal to approve the Finance Committee report. ROLL CALL: Mr. Huff-yes; Mr. Zucal-yes; Mr. Fox-yes; Mr. Baker-yes; Mr. Miller-yes; Mr. Harmon-yes; Ms. Myers-yes.

The Finance Committee is recommending that the police contract be extended for one year. A motion was made by Mr. Zucal, seconded by Mr. Huff to extend the police contract for one year. ROLL CALL: Mr. Zucal-yes; Mr. Huff-yes; Mr. Baker-yes; Mr. Miller-yes; Mr. Harmon-yes; Ms. Myers-yes; Mr. Fox-yes.

The Hammond proposal was reviewed in Finance Committee and they agree that they will hold off on that and maybe look into it in the future, and it has been tabled.

The Finance Committee also discussed the payments and non-payments of Dennison Tax and they are not unanimously in agreement regarding payment. Mr. Huff does not agree with paying the money. Ms. Myers and Mr. Zucal agree that there is a binding agreement with Dennison and they should pay what they owe now. Mr. Zucal asked for a Motion from this Council wherein we support the agreement that is in place with the Village of Dennison, being that the agreement is in place and was done in good faith and we support that gesture between the cities and the school and until such time we make those payments current through 2020, until such time that that agreement is repealed or replaced. Ms. Myers seconded the Motion. Mr. Baker was concerned that, according to the lawyer, if we make this payment Ms. Pearch is the one that is going to be liable. Ms. Pearch spoke with the State Auditors and is waiting on a call. She has a legal opinion, which by rights is what the City needs. Mayor Haney said it may seem we have a legal opinion. Mr. Zucal said that is only an opinion. The Motion is to enforce the agreement with the Village of Dennison regarding taxes, to pay the Village of Dennison through the end of 2020, until it is repealed or replaced by Council. ROLL CALL: Mr. Zucal-yes; Ms. Myers-yes; Mr. Baker-no; Mr. Miller-no; Mr. Harmon-yes; Mr. Huff-no; Mr. Fox-yes. Mr. Huff gave the following statement: State received a legal opinion on November 12, whether or not you agree with it, that the agreement is in violation, based on the decision. As such, he stated his opinion in the Finance Committee meeting on Monday night, that any money should be paid up to November 12 to the Village of Dennison. We would be willing to renegotiate with the Village of Dennison. He would also like to remind that they were elected and took an oath to serve the City of Uhrichsville and its citizens. Any and all decisions that are considered by this Council should reflect that and not to protect the status quo. He also would like to apologize to the Auditor for any undo issues for the last month.

**Mr. Harmon** – Nothing to report.

**Mr. Miller** – Nothing to report.

**Mr. Baker-** Nothing to report.

**Mr. Zucal** – Nothing to report.

### **Old Business:**

**Mr. Fox** – Asked about the plumbers that he saw at the Water Park. They were there installing the special faucets purchased with CARE's Act money.

**Mr. Huff** – Nothing to report.

**Ms. Myers** – Nothing to report.

**Mr. Harmon** – Thanked everyone who showed up to support the Haverfield event that was held this Monday. It was a very good event, honoring a local veteran, the first that passed away in the attack on Pearl Harbor.

**Mr. Miller** – Nothing to report.

**Mr. Baker** – Nothing to report.

**Mr. Zucal** – The Pastor at the 11<sup>th</sup> Street Church of God wanted to thank the Mayor and crew for cleaning up the alley and patching the alley.

### **New Business**

**Mr. Fox** – Nothing to report.

**Mr. Huff** – Nothing to report.

**Ms. Myers** – Thanked the Clayland Lions for the Christmas parade. Julie has been a wealth of information to her, and hates to see her go, but wished her enjoyment in retirement.

**Mr. Harmon** – He attended a hearing last week at the State House in Columbus. He testified on Senate Bill 212 in front of the Ohio House Ways and Means Committee. It authorizes us the opportunity to create neighborhood development areas which would allow us to authorize incentives for property improvements as far as taxes go. Hopefully the bill will be up for a vote this week.

**Mr. Zucal** – Nothing to report.

**Mr. Miller** – Nothing to report.

**Mr. Baker** – He had emailed the Council President with questions on three separate dates and was upset that he hadn't received replies from him. President Cottrell said he placed the requested information in Mr. Baker's box and asked him to call or text.

### **Visitors:**

None in person. Visitors that were watching by Zoom were not able to participate.

### **ORDINANCES/RESOLUTIONS:**

#### **RESOLUTION 1888**

#### **A RESOLUTION ACCEPTING THE 2020 RENEWAL RATES FOR THE CITY OF UHRICHSVILLE, OHIO GROUP HEALTH PLAN, AND ESTABLISHING EMPLOYEE CONTRIBUTION RATES**

A Motion to approve the Resolution was made by Ms. Myers, seconded by Mr. Zucal. ROLL CALL: Ms. Myers-yes; Mr. Zucal-yes; Mr. Huff-yes; Mr. Fox-yes; Mr. Baker-yes; Mr. Miller-yes; Mr. Harmon-yes.

#### **ORDINANCE 38-20**

#### **AN ORDINANCE ESTABLISHING RULES FOR PLACEMENT OF A MOBILE HOME ON A LOT LOCATED IN THE MUNICIPALITY, AND RESCINDING CHAPTER 1317 OF THE CODIFIED ORDINANCES OF THE CITY OF UHRICHSVILLE**

#### **Third Reading**

A Motion to approve the Ordinance was made by Mr. Baker, seconded by Mr. Huff. ROLL CALL: Mr. Baker-yes; Mr. Huff-yes; Mr. Fox-no; Mr. Zucal-no; Mr. Miller-yes; Mr. Harmon-yes; Ms. Myers-no.

#### **ORDINANCE 40-20**

#### **AN ORDINANCE WHICH PROVIDES FOR A TEMPORARY APPROPRIATIONS FOR THE YEAR ENDING DECEMBER 31, 2021.**

A Motion to suspend the Ordinance was made by Ms. Myers, seconded by Mr. Baker. ROLL CALL: Ms. Myers-yes; Mr. Baker-yes; Mr. Huff-yes; Mr. Fox-yes; Mr. Zucal-yes; Mr. Miller-yes; Mr. Harmon-yes.

A Motion to adopt the Ordinance was made by Ms. Myers, seconded by Mr. Zucal. ROLL CALL: Ms. Myers-yes; Mr. Zucal-yes; Mr. Huff-yes; Mr. Fox-yes; Mr. Baker-yes; Mr. Miller-yes; Mr. Harmon-yes.

### **COMMITTEE ASSIGNMENTS:**

Asked Council to let him know what committees they would like to be on next year so he can get the committees assigned.

### **Other Discussions:**

President Cottrell asked for a Motion to go into Executive Session at 8:08 p.m. to discuss court action. The motion was made by Ms. Myers, seconded by Mr. Baker. ROLL CALL: Ms. Myers-yes; Mr. Baker-yes; Mr. Huff-yes; Mr. Fox-yes; Mr. Zucal-no; Mr. Miller-no; Mr. Harmon-yes.

Council returned from Executive Session at 8:19 p.m. on a Motion from Mr. Zucal, seconded by Mr. Fox-yes. ROLL CALL: Mr. Zucal-yes; Mr. Fox-yes; Mr. Baker-no; Mr. Miller-yes; Mr. Harmon- no present for vote due to a technical issue with Zoom; Ms. Myers-no; Mr. Huff-yes.

Next meeting will be Tuesday, December 29, 2021 at 7:00 p.m.

Mayor Haney submitted a letter protesting the decisions made outside of the Finance Committee meeting.

Meeting Adjourned at 8:24 p.m.

  
Trisha Addison  
Clerk of Council

  
Robert Cottrell  
Council President





Statement 12-10-2020

I have a statement to make and would like this entered into the official record of proceedings. This is in response to Council President Cottrell's December 10th statement he made regarding the "Letter of Intent."

Ohio Revised Code 731.05 Powers of legislative authority.

The powers of the legislative authority of a city shall be legislative only, it shall perform no administrative duties, and it shall neither appoint nor confirm any officer or employee in the city government except those of its own body, unless otherwise provided in Title VII [7] of the Revised Code. All contracts requiring the authority of the legislative authority for their execution shall be entered into and conducted to performance by the board or officers having charge of the matters to which they relate. After the authority to make such contracts has been given and the necessary appropriation made, the legislative authority shall take no further action thereon.

Effective Date: 10-01-1953 .

This simply means that council has legislative authority only and council shall not perform administrative duties. This means that after the 1998 Uhrichsville City Council adopted the "Letter of Intent", it then became the responsibility of the administration (Mayor) and the city council could no longer take action.

As mayor, I took an oath of office and it was to protect and to serve the citizens of the City of Uhrichsville. I do, and always will continue to do what it best for the city and its residents regardless of how another political subdivision feels. I take my oath of office seriously. It would be my hope that each and every council member takes his/her oath of office seriously. We all serve the citizens of the City of Uhrichsville.

I consulted an attorney with whom the city has worked with before to look into the contract because for many years, I felt that the "Letter of Intent" was not a legally binding contract. Once we had the opinion from attorney Kip Walhers of ICE MILLER LLC that it was not a legally binding contract, the contract simply ended.





I want to clear the air by explaining again what was explained in our executive session on November 12th when Mr. Kip Walhers met with city council in an executive session. Before I do, I would like to mention that it became clear to me that at least one of the Uhrichsville City council members discussed what was said in our executive session with a Dennison elected official. I believe council President Cottrell made it clear on November 12th that divulging information discussed in an executive session is a misdemeanor violation.

[REDACTED] I would like to caution all council members that these matters are taken seriously by this administration and if I feel there are violations, I will personally report them to the Ohio Attorney General.

- 1) Did the Mayor remove the City from the Agreement? No. The agreement ended by its terms when one party (the City) received a legal opinion that the Agreement was illegal. Neither the Mayor nor the Council took any action to end the Agreement.
  
- 2) Why was the Agreement illegal? Based on Ice Miller's analysis, the Agreement was illegal and invalid from its inception for several reasons with stated in their opinion. To summarize, the Agreement is illegal (1) because a precondition for its establishment (the approval of the State Auditor) was never obtained, (2) no consideration was given to the City by the Village in exchange for the City's promise to split income tax revenues; (3) because it purported to create a multiyear debt of the City; (4) no certificate of availability of funds was attached to the Agreement. Were this to be contested in court there would likely be other grounds as well.
  
- 3) Can the City make a future payment under the Agreement? No. The Agreement has ended by its terms and was invalid when in effect.
  
- 4) Can the City make a payment with respect to past amounts due under the Agreement? Ice Miller's advice would be no, since this is and always has been an illegal agreement. Any payment under the Agreement would expose the Auditor (Julie Pearch) to potential liability. Should Council desire to make a payment, I would suggest proceeding under #5 which I will explain next. In the alternative, we could do the research on whether the City's obligation for 2020 could be satisfied, as it accrued prior to the delivery of the legal opinion ending the Agreement, despite the fact that the Agreement was always illegal.



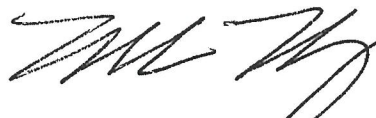
5) Can the City make any payment at all with respect to the Agreement?

Potentially, yes. There would appear to be a dispute between the Village of Denison and the City of Uhrichsville. Should the City and the Village agree to resolve that dispute, either party could make a payment to resolve the dispute. I assume that any such agreement would need to be approved by Council, but we have not done the research on this issue as it seems self-evident.

6) Can the City recover amounts paid to the Village of Dennison under the Agreement? We have not done the research to confirm that the City can; It is our attorney's belief is that a claim for recovery for past amounts (likely to be in excess of \$300,000) is reasonable should this dispute go into litigation.

Lastly, myself and the city service director Ms. Everett knew going into this that our law director, JJ Ong would have to be recuse himself of this matter due to that fact that it caused a conflict of interest as he serves as Solicitor for the Village of Dennison. JJ was not given details, all he knew was that the agreement was being explored and that we consulted outside council in order to protect him from any ethics violation and/or liability to the city. JJ understood and told Ms. Everett that he would not be involved with either Uhrichsville or Dennison as it caused a conflict of interest.

The executive session I requested on November 12th was to keep council in the loop, it was not to ask for your vote because once we were made aware that the agreement was illegal, the agreement simply ended. Ice Miller LLC represents us in this matter and they continue to do so. The Village of Dennison has mentioned in the media that they have secured a law firm to represent them. I welcome their law firm to contact Ice Miller to discuss this dispute.

  
Mayor City of Uhrichsville







305 East 2nd Street Uhrichsville, OH 44683 • Phone: (740) 922-1242 • Fax: (740) 922-6668

◆ Mayor - Mark Haney ◆

Director of City Services - Belle Everett ◆

◆ Administrative Assistant - Jen Wright ◆

December 8, 2020

Re: Finance Meeting

After sitting thru the finance meeting and listening to the live feed a few times I have a few questions and opinions on the matter

- This was placed in this committee by council president to investigate. After the city received a legal opinion from Ice & Miller.
- Did the committee seek another legal opinion as none of them are practicing attorneys in the state of Ohio? So any opinion from them that the cities law firm is wrong has no basis.
- What research did this committee do on this matter?
- So in this meeting I heard two (2) recommendation to which only one can be brought to the floor of council for consideration. It was also made very clear by Councilmen Zucal that this should be brought to the whole council for consideration.
- The first from Councilmen Huff was to pay up to the date of the letter and then look at it further
- The second one was one supported by both Chair Meyers and Councilmen Zucal. This one was to pay thru December 31, 2020 and then renegotiate if we can moving forward in 2021. Councilman Huff also asked the question " Will we face recourse from the state auditor" to which Chair Meyers said "No". According to Auditor Pearch who called Rey & Associates and her direction comes from council. Going forward it was recommended that an ordinance or resolution be put in place.

Best Regards,

Mayor Mark Haney

