

Thursday, October 18, 2018

**ITEM 1: CALL TO ORDER:** Mayor Flaute called the Riverside, Ohio City Council Meeting to order at 6:00 p.m. at the Riverside Administrative Offices located at 5200 Springfield Street, Suite 100, Riverside, Ohio, 45431.

**ITEM 2: ROLL CALL:** Council attendance was as follows: Ms. Campbell, present; Mr. Curp, present; Mr. Denning, present; Ms. Fry, present; Mr. Fullenkamp, present; Deputy Mayor Lommatzsch, present; and Mayor Flaute, present.

Staff present was as follows: Mark Carpenter, City Manager; Chris Lohr, Assistant City Manager; Tom Garrett, Finance Department; Major Matt Sturgeon, Police Department; Chief Dan Stitzel, Fire Department; Kathy Bartlett, Service Department; Jay Keaton, Service Department; and Katie Lewallen, Clerk of Council.

**ITEM 3: EXCUSE ABSENT MEMBERS:** There were no members absent.

**ITEM 4: ADDITIONS OR CORRECTIONS TO AGENDA:** Ms. Fry stated item 6) C) should read as Work Force Housing Update and not Work Place Housing Update.

**ITEM 5: APPROVAL OF AGENDA:** A motion was made by Mr. Denning to approve the agenda with correction. Mr. Curp seconded the motion. All were in favor; none opposed. **Motion carried.**

**ITEM 6: WORK SESSION ITEMS:**

A. Fire Department Citizen Recognition

Chief Stitzel: Good evening Mr. Mayor, Council, this evening we come to you wanting to recognize one of our citizens, Mr. Kevin Allen. He works for the Montgomery County Water Department and back in June during his duties he was brought into the rear of Morris Home Furnishings. As he was coming behind the building, a female came out of the wooded area screaming for help. Her boyfriend was in the woods and had apparently overdosed. Mr. Allen got out of his vehicle and assisted in the situation, he called 9-1-1 providing updates to us and helping with the care of the patient until we were able to get there and the police were able to get there. In our society, it is hard to get people to want to get involved in things especially in a situation like this. Mr. Allen didn't hesitate, he got involved right away to help out and we wanted to bring him in and recognize his involvement and show him how much we appreciate his involvement. We have a certificate of appreciation for him that is awarded to Kevin Allen in appreciation for assistance with an overdose patient on June 15, 2018, by calling 9-1-1 and assisting with the care of the patient until EMS arrived. Your quick actions provided a positive outcome and the revival of this person who experienced a heroin overdose. With your assistance, this citizen was able to make a full recovery from the incident; awarded this 18<sup>th</sup> day of October 2018 signed by myself, Fire Chief of the City of Riverside. Mr. Allen, thank you so much for your help.

Mayor Flaute: Chief thank you for recognizing him.

B. Personnel Appeals Board Applicant

Mayor Flaute: Next is the Personnel Appeals Board Applicant, the applicant is here and we are pleased that she has stepped forward. Her name is very familiar to Riverside, Ms. Stankowski, Kathy Stankowski, has applied for the unexpired term April 6. Please come forward and tell us a little bit about yourself and why you would like to be on the board.

Ms. Stankowski: I'm Kathy Stankowski; my family has lived here for 70 years, I've lived here maybe close to 60 years. I've wanted to do something to volunteer. To be honest I didn't want something that was full blown with a lot of people or anything, and then I

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figured well I have been in Riverside a long time and I looked on the website. Zoning didn't appeal to me, but then I saw the one for the appeals board and I thought this sounds interesting and I'm going to try this one. I am an office manager at Life Essentials. Mayor Flaute: I actually see her quite often at different events. Ms. Stankowski: Are you coming next week? Mayor Flaute: I can't remember I will have to look at my calendar. Ms. Stankowski: I think you signed up. Mayor Flaute: We really appreciate you taking the time to do this. Are there any questions from members of council? OK, is there a motion to bring forth legislation?

Mr. Denning motioned to appoint Ms. Stankowski to the Personnel Appeals Board. Deputy Mayor Lommatzsch seconded the motion. All were in favor to bring legislation forward at the next meeting.

### C. Work Force Housing Update

Mr. Carpenter: We have representatives from Work Force Housing in our audience, Peter Schwiegeraht; I will turn it over to you.

Mr. Schwiegeraht: Good evening council members, mayor, thank you for your time this evening. As you may remember we were in about six months ago discussing our opportunity to develop some new housing in the community. Out of that, we have started further design and development. We wanted to give you an update not only on our progress with that development, but also our progress with the senior housing development. I will start there. I will bring in a few sheets; with our senior development we would have hoped to be fully complete on our construction effort by now. We have had a few slowdowns with constructions; however, we are, hopefully, even days away from receiving our CO (Certificate of Occupancy) on the finally building. One of the things that has lagged and as we have had dialogue with the city has been a bit of a lag is up front with the detention basin. First, I think it got seeded at a time of year when that seed didn't really take as well as we hoped. In addition to that the detention basin was out front was always intended to take as much of an aesthetic look as it could; unfortunately, we were also dealing with soil and water requirements from *IDOM* (*wrong state; he meant OEPA*) and the county that require us to do certain things in there that require sediment and erosion control measures to occur in that basin. With that, you end up with a little bit of a mucky spot. I think our goal was to always have that, while a depressed area, a completely mowed area nice and clean and really it will look depressed, but it will look like anybody's lawn. Unfortunately because of this sediment and erosion control measure, it is required on all detention basins these days you end up with an area that is going to remain wet and generally unmowable. For now, since we aren't able to mow it, it has some overgrowth and weeds and so forth; otherwise the area has really started to grow and mature. All the plantings are in that detention basin, nice healthy tree sizes, 2.5" – 3" caliper trees in there, a lot of landscaping and shrubs and so forth, but having had some conversations with the city and some disappointments with the look and care of that basin, part of that is we simply can't get in and mow an area that is 4" – 6" wet so we have come up with a rain garden bioswale concept that will finish the look and feel for that basin. The plan shows a river rock bed that will take on the appearance of a small little creek or stream. We will place some nice aesthetic boulders in there that give it a look and feel of being more creek-like than a typical swale or paved gutter. In addition to that, we will add substantial plantings to the edge of this new river rock bed that will enhance and create somewhere in the realm of 100+ plants that will provide additional flowering and shrubs to give it a more landscape appeal. That same river rock edge is going to go around the area that will remain wet. This will give it a defined edge and allow for a clear edge of where we mow to so that there is not a transition area. In the wet area itself, we will be going in and planting that with wetland plants that will take on the look of a native grass type area; it will grow 2' – 3' high the native grass of that area, but it will be consistent and that will prevent it from growing the cat tails and some of the other things that seem a little more evasive. The result is we will spend \$20,000 - \$25,000 enhancing that basin giving it more of an

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aesthetic appeal. It will serve for detention which is what it is there to do, but it will also have hopefully have a little more life and color to it. In addition to that, we have talked to our contractor about going out and doing a second round of seeding so that we can get that grass growing better than it has. I think they seeded at mid-summer and it was a time of year where there is some stuff dying off. Along the landscaping and along the building a few plants have died off and that is under warranty and we will address that with our landscaper at the end of the year that was if there are any other plants that do die off they will be covered and replaced as well. The end result is that I hope you think that the front of that building looks good; we think it presents very well to the road and we have had tremendous traffic there. The cottages which have had their certificate of occupancy are fully leased and we have had a substantial amount of residents wanting in to the main building on the front. It is only a matter of receiving that CO; I think there was one more issue that I think may have been addressed today or is in the very short order. We will be filling and occupying that building very, very soon. We are hopeful to have a grand opening ceremony, I don't know if it is late this fall or whether we will wait until spring that is better suited for weather that we can host outside, but one way or another you will all be invited and we hope to see you out there so you can see the end result. I just wanted to let you know of the enhancements going on and hope they address any concerns you might have had about the front of the property. I'm happy to answer any questions you have about that.

Mr. Denning: So right now just about the whole front of that building is just a big pond, a retention pond, so this is going to be a smaller, deep area and you are going to fill in part of that? Mr. Schwiegeraht: No, we can't fill in the basin. So if you went out there now, the basin does technically run about the whole length of the building, but it all slopes towards the drive. The first or northern three-quarters of that basin is mowable, it is very clear and grassed just fine right now. We would intend that remain grass and then on the southern end of the basin where it is at its lowest point, the outfall structure where the water enters into the storm system, that is the area that will remain a little mucky because the OEPA requires us to have a bobber system. The water has to fill up a certain amount before it can overflow into the structure, which leaves it wet. It holds 4" – 6" of water, certainly during the driest part of the season it might dry up, but I would think it would be that was. It is probably about a 30' – 40' long area that is staying wet and that is what we will do that rip rap rock around and out of that will be a little bit of an outshoot that takes the appearance of a dry creek bed. Mr. Denning: So that is going into the higher end of the basin. This that you just showed us will go the full length of the building? Mr. Schwiegeraht: The rock is about two-thirds of the length of the building.

Mr. Schwiegeraht: I will pull a second set here, there are actually two sets. We will start with this one, as you may remember we came in about four to five months ago to present our proposal for developing multi-family housing on the side adjacent to the senior building. At that point, we presented this concept plan which included two three-story buildings: one up on Harshman facing out toward the road similar to the senior building, and one facing the new access drive that we located and is an access drive in to the senior campus. We always planned for this to be a co-access point. If you remember from a couple of years ago when we brought the senior development in, we had this Phase II planned with a concept of a shared access drive that would benefit and be utilized by both of these properties. This is what we intended on building. We have this plan in front of your BZA next week and the reason being as we dug further into the code with your staff, we identified a few deficiencies to code that came up with this plan. One is when you are adjacent to a commercial property in your code; it is a 10' building setback. When you are adjacent to another multi-family development it is actually a 25' setback, which is a little odd. We had talked with staff and it appeared from staff's perspective it was likely more intended when we were adjacent to single family where you might want to buffer a single family resident more than you would. Because of that we are deficient in our setback, the front building doesn't quite have room for that 25' setback on the south side, which is adjacent to future multi-family development. Based on that, if we are going to build the

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building and design the site as we intended, we would need to ask for a variance from that. Then additionally, we identified we were deficient in square footage on our three bedroom unit. We have two BZA requests in as it stands today. It would allow in theory for us to minimize that setback to the other multi-family land as well as allow for a slightly smaller three bedroom unit. Now, as we put that application in we started to realize that there are other ways to design the site to remove these variance requests. In addition to that having heard from council at our meeting four months ago, we realized we could address some of the concerns of council related to a large building up near Harshman. We started to debate that we come up with a different way to design this so that we don't have to ask for variances. The square footage was a miss on our behalf. Your three bedroom unit has to be a certain size; we were smaller than that that is our miss. We already intend on foregoing that request. We have already started working to redesign our plans so that our plans are consistent with the square footage of your code. If we end up at BZA next week, we will actually request that they remove that request from the agenda. We want to build it and adhere to your code in that case and not have you at risk to setting precedent to give future developers the opportunity to ask for similar reductions. That one is going away; we are going to meet your square footages.

Mr. Schwiegeraht: We did want to look at the setback issue. Plan #2 is how we can design the site to address a site plan that has no requirements for variances. It takes the building away from Harshman and shifts it to the other building and moves that building back further into the site. One of the reasons we were trying to stay away from this is on the rear side of the site the western end, the topography does fall off. There are some really nice woods in the back that we would love to preserve as much of it as we can so the goal was the flatter areas in front of the site push it east and keep it along Harshman that would allow it to stay consistent with the look and feel of the senior development, but as we found this variance, we resulted in this plan. We spoke with the City Manager and staff to let them know we never intended to have to ask for a variance and want to adhere to the code. Certainly this setback was identified late. This portion of the code sits in a different location of the code which allowed for it to be missed. We have come up with a solution that will allow us to remove our need for a variance. We could withdraw our request from the BZA and move forward with this new plan and not have to have any concerns or issues with setting precedent or asking for things outside the conventional code. We have both plans designed and are ready to move forward in both directions. While one has some benefits another has benefits, both are acceptable plans and designs to us. A benefit of the original plan is that it will face a building towards the road, if you look at the senior building it has a lot of architectural elements: gables, dormers, brick; it really presents well. Option 'A' would continue to allow for that across the private drive and also mirror and emulate the senior development so that it really looks like one consistent development. Option 'B' moves the building back into the site and gets them away from the road and potentially preserves maybe some of the tree line up front. The trick is we will still have to do a detention basin up there just the way the water flows it is required by code. We have tried to convince the county of a dozen different ways that we could go about foregoing that basin over detain in one direction and under detain another direction, but they simply said they are not going to allow that. We will have to have some double detention basin up there. Good news is that we have provided a little additional land in either case. It is a lesser watershed so it can be a smaller basin and the same architectural commitments we just made for the one basin on the senior development we would deploy a similar plan in that basin so that there is nice consistency and some of the same aesthetics we just talked about. The downfall to the non-variance plan is you have the side of a building facing out toward the road. We have made commitments to the manager if option 'B' is selected, we would make some enhancements architecturally to the end of the building so it has more brick, take the brick up all the way, do some extra gables and enhance that end since it is now what would be facing forward. Initially we planned on coming to the city to withdraw our request to be in code compliance, but at the same time, we have two plans, before we would withdraw the request, he thought it would make sense for us to come in and discuss both plans and determine if council may like one more than the other. If you like option

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‘A’ better we would continue to pursue the BZA approval for the one variance, which would request a more minimal setback on the south end of the building. Granted, BZA may or may not approve that variance; if that is the case we would have to go with option ‘B’. If you prefer not to see the bigger building up front just move forward with option ‘B’ and we will immediately withdraw our request to the BZA and proceed forward with that option so we don’t have to ask for variances. The real goal here was to give you an update on our senior development and the progress on the family-oriented development, see if you have any input or desires or directions you want to provide related to Phase II. We are happy to move forward with whichever option you think is more appropriate or provides the best outcomes.

Deputy Mayor Lommatzsch: This is three stories? Mr. Schwiegeraht: It is. Deputy Mayor Lommatzsch: How many units? I don’t seem to see that. Mayor Flaute: Originally it was 57 units. Mr. Fullenkamp: It says 61. Mr. Schwiegeraht: It is the same unit count no matter which of the options we do. I apologize; I am pretty sure the end result is the same. It is the same unit count and same number of stories in either option. I am sharing with you a rendering of a different development but it is the aesthetics of the building. Mr. Fullenkamp: This is the option ‘B’ drawing? Mr. Schwiegeraht: It is actually from a different development it would be Option ‘B’ or Option ‘A’ the only difference is how long the buildings are. In theory if we did Option ‘B’ it would be a little longer. Mr. Fullenkamp: This is the style. Mr. Schwiegeraht: Yes.

Mayor Flaute: What do your tenants like? You have these types of things around other areas; does it seem to make any type of difference whether they have one building or two smaller buildings? Mr. Schwiegeraht: The larger building has a third stairwell and access point in the center. From the standpoint of proximity to your unit from the parking lot you have about the same walking distance in either scenario. The only thought I have related to tenants is if we go with Option ‘B’ it is more up adjacent to the senior cottages. One way or another they will have a three story building across that private drive from them, but they would end up with a longer building across the street from them. Mayor Flaute: The one you presented to us the first time. It did show a detention in that area. Mr. Schwiegeraht: In the rear? Yes, so the end result is once you get topography involved this basin ends up further back here and that will be the case in either design and then because there is a small of water shed that watersheds this way there will still be a similar basin to that here. As you can see with Option ‘B’ there is more space because that building normally sat here so there is substantially more space. We could do either a shallower basin or a smaller basin and try to preserve some of the tree line out at the road. I do warn that how much tree we can save either there and the quality of the tree out on the road, as we went and surveyed what size trees we have and what caliper trees we have, a portion up toward the road is more honeysuckle than it is woodland so what we save might not be all that impressive. Mr. Denning: I would rather see the honeysuckle gone and then plant trees then to have the honeysuckle. Mr. Schwiegeraht: I am in agreement. Even if you said let’s do Option ‘B’ and just get the mess out of there get a nice lawn area and put some new high caliper trees in that would be fine as well. Mayor Flaute: These detention areas aren’t going to cause the same problems you just experienced with the senior lofts. Mr. Schwiegeraht: In theory, they will be required to have that same OEPA bobber system, but what I am saying is we are committed to doing these enhanced design features. I think they could look nice once they are done and you have a mature growth in there and they are mirroring and matching each other. Ms. Fry: What is the setback for the senior lofts? Mr. Schwiegeraht: I think it is 80’ off the right-of-way. I think the requirement if you look at the code is 25’, but in order to get that basin to fit, we had to push it back a little bit further. I think it is right around 80’ from the right-of-way line, which is the back of that sidewalk. Ms. Fry: Either way this development would be closer to the road? Mr. Schwiegeraht: If you used Option ‘A’, which is the one with the building up front, it would actually mirror the senior building and would be the same distance roughly 80’ setback from the right-of-way. Mayor Flaute: Option ‘B’ would be the same? Mr. Schwiegeraht: It would be more like several hundred feet off the road.

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Mr. Denning: The sidewalk across the front, when we talked back in July, we talked about you talking to that church and see if they would let you run that all the way down to the bus stop. Mr. Schwiegeraht: I am not getting on my phone; I am taking a note so that I remember to reach out to them. Mr. Denning: I know staff was supposed to help you do that so you may want to put a note in your phone, too. Mr. Schwiegeraht: I will admit I have tried to contact that church on multiple occasions with no success, any help you may have in doing that. Unless there hasn't been a right-of-way take, it would be in the right-of-way, we could probably construct it, but it is right at the edge. Mr. Denning: If we talk to them and let them know, they do have landscaping in front of their church, but it would be nice to have that sidewalk, especially running all the way down from Riverside Commons all the way down to the south end. The other would be to go from the Senior Lofts go across that church's lot to Riverside Commons. It is just a suggestion because that would clean up that whole road area and make that bus stop a lot more accessible for everyone. I am going to guess that a lot of the people going to live there may need those bus stops. I know that folks who live across at Timber Ridge use the bus stop there. It would be nice to put those sidewalks in, if we can, while we are doing it so we don't have to do it later. Mr. Schwiegeraht: I will put out a note for engineering related to that because I do know it will be a pretty simple task to get it across the church's property. Where the church then connects to Riverside Crossing, their sidewalk is setback a little bit and dead ends into somebody's electric box. There is a power pole there with a guy-wire so I think there will be some figuring out if we get it across the church property how do you literally get it the last 10' to connect. Mr. Denning: Well, if we get it all done but that 10' we will figure it out. Mr. Schwiegeraht: Certainly, if you think one of these is better than the other we are ready and happy to go either direction. I don't want to go to BZA and ask for something if really it will put a design into place that is against council's desires. I would be happy to go and continue the process is council thought Option 'A' was better than Option 'B'. I don't know if you want to give me input, but if you do, here is a good opportunity to and we are happy to move forward accordingly. Mr. Fullenkamp: I think we should just meet our code. That is how I feel about it. Let's not tempt fate with providing variances for a development like this so Option 'B' is what I would say is best.

Mayor Flaute: Any other questions or comments from members of council? Deputy Mayor Lommatzsch: I just prefer smaller buildings. It seems to me like warehousing people and I don't like that concept. Mr. Schwiegeraht: So is that leaning towards Option 'A'? Deputy Mayor Lommatzsch: I mean you asked for my opinion. I just think that big barn buildings are just not aesthetically pleasing. Mr. Curp: Why would Option 'A' not work? Mr. Schwiegeraht: It is not that it wouldn't work; it would just require a setback variance. The building up on the front, the east side is required to have a 25' setback to the property to the south, which is a one-acre parcel zoned as multi-family. We would be asking for a variance to allow for a 13' setback from that property line. We are only getting 10' closer and by the way we are only 10' off of the church's lot because oddly enough to a commercial property it is only a 10' setback to a like kind property it is a 25' setback. It is a little quirkiness in the code and you would think you would be a smaller setback to your own use and a larger setback to something more intense. Mr. Fullenkamp: But didn't you also say you had a three bedroom issue? Mr. Schwiegeraht: We are fixing that either way. If we were requesting a variance at this point, it would only be for one and related to the setback not the size of the units.

Mayor Flaute: I'm not sure we helped you any. Mr. Schwiegeraht: I think I heard two the one way and one the other way. I heard two "A's" and one "B". Mr. Denning: I guess I would prefer 'A' because with Riverside Commons there and the Senior Lofts it fills in what is there. I don't want people to think we are trying to hide something and I agree with Mrs. Lommatzsch, I think the smaller buildings are better than the larger building, either way good luck. Mayor Flaute: Do we want to take a vote on this? Mr. Denning: I think the answer is he can go to BZA and if BZA says "no" we will go with Option 'B' anyway. Mr. Schwiegeraht: I think if they thought we had brought both suggestions to council and

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council requested to pursue a certain direction that might carry some weight with that board. I do agree, I don't know that considering the property adjacent to us south is multi-family; we would be willing to concede the same setback we might get a variance for they might have all the reason to concede or ask for a similar variance to us, if desired. It is kind of a quirky thing in your code that it is slightly backwards from what you normally would see. When you are normally adjacent to a less dense use or a higher dense use you might see that setback get bigger, but when it is to the same one, I really do think it is a reasonable request to ask for. Another thing related to that is when we thought we would be doing this all as one phase that property line that is creating the impingement would have actually been in the center line of our private drive so if it wouldn't have happened in phases, our center line would have been shifted over the building would have shifted over and we would have been able to meet the code so there is somewhat of a hardship with the phasing of the development required that private drive to be all on one property instead of split across two and that has kind of created some of the impingement as well.

Mr. Curp: On Plan 'A' have you considered just flip-flopping the buildings and taking the front building B and putting it on the back of the parcel and taking building A and move it forward? It would seem you could do what you want to do without needing variance. Mr. Schwiegeraht: Building B is bigger if we were to do that it would actually not fit directionally. It is a bigger building and we can't get the smaller building to fit without a variance. If you are talking about shifting it, that is basically what we have done, but the problem is by the time you get to the rear of the site if we tried to keep it as two buildings it then pushes so far down the hill we are removing all of the trees back there and go to a retaining wall. The concept of having to push the two buildings together gives you the slope and the ability to taper off the grades in the rear and preserve some of the trees. I am not sure if you are familiar with it, but there are a few residences in the rear that have requested that we try to preserve as many trees as we can and have asked us to do some over detention, which we are committing to doing some over detention back there. By trying to do two buildings it exasperates the scenario in the rear. Mayor Flaute: So we are going to have fewer trees with two buildings? Mr. Schwiegeraht: No, I am saying if we kept them as two buildings but shifted them both back we would have less trees. Mr. Denning: That was the question I wanted to ask earlier to make sure we are not negatively impacting those folks on Mentor in the rear, they were here at the former meeting and I am sure they will have lots of questions once they see things start to happen. Mr. Schwiegeraht: There is a detention basin back there. All of our water will collect into it. It has been approved by or will be approved by the county engineer's office. We have done some measure of over detention so we aren't just meeting the requirement; we are holding back more. There will be a pretty substantial amount of trees preserved back there.

Deputy Mayor Lommatzsch: I heard that before about Timber Ridge where it became timberless ridge. Mayor Flaute: I think that was your development. Mr. Schwiegeraht: I think that was many moons before me. I will make sure your staff has the grading plan, they may have it already, where that tree line will be preserved and I will have our engineer take another look at it and how we might tighten that up and preserve as much as we can. Deputy Mayor Lommatzsch: We were concerned about the height of Timber Ridge because those apartment looked right down into the lower buildings and they took all the trees out and put some sticks in so I call it timberless ridge. Mr. Schwiegeraht: I will say the trees we have been planting at the senior village, we are planting some really healthy size trees with 3" calipers. It still has some growing in to do and we still have some work to do, but by the time we finish it off we will be happy with the results.

Deputy Mayor Lommatzsch moved to recommend Option 'A' in deference to Option 'B'. Ms. Fry seconded the motion. Five were in favor; two opposed: Ms. Campbell, nay; Mr. Curp, nay. **Motion Carried.**

Mr. Schwiegeraht: Thanks for giving us some direction. At any point you want us to come back during our process, feel free to let the manager know. We want to give you

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opportunity for input as we are committed and we are happy to come in as much as you want and talk about the development as it proceeds.

Mr. Curp: If you pitch Plan ‘A’ to BZA, you are just looking for the setback variance, but not the variance on the size of the apartments? Mr. Schwiegeraht: Correct. Just for a procedural measure, Mr. Manager, do we need to write a letter formally withdrawing that or can we just get to the meeting and withdraw it at the meeting? Mr. Carpenter: Are you withdrawing? Mr. Schwiegeraht: Just the second one on square footage. So we will let them know at the meeting we will withdraw the request. Deputy Mayor Lommatzsch: Will you let us know at the Chamber when you are going to do your opening so we can help you with that? Mr. Schwiegeraht: Absolutely.

**ITEM 7: RECESS:** The Council took a recess at 6:45 pm.

**ITEM 8: RECONVENE:** The meeting was reconvened at 7:00 pm.

**ITEM 9: PLEDGE OF ALLEGIANCE:** Deputy Mayor Lommatzsch led all those in attendance in the pledge of allegiance.

**ITEM 10: MINUTES: Consider approval of the minutes of the October 4, 2018 regular Council meeting.** A motion was made by Mr. Denning to approve the minutes as written. Mr. Curp seconded the motion. All were in favor. **Motion carried.**

**ITEM 11: ACCEPTANCE OF PRIOR MONTHS FINANCIAL REPORT:** A motion was made by Mr. Denning to accept the prior months’ financial report. Deputy Mayor Lommatzsch seconded the motion. All were in favor. **Motion carried.**

**ITEM 12: PRESENTATIONS**

A. Five Rivers Metro Park – Bill Tschirhart, Chief of Administration

Mr. Tschirhart: Good evening, I am Bill Tschirhart, Chief of Administration with Five Rivers Metroparks. It is a really terrific last name; you have four consonants before you hit a vowel, so if you ever see it somewhere you will struggle to pronounce it so I always tell people to think of a cheerleader and a heart and you are all set. I want to thank you all for the opportunity to come out and talk to you all about Five Rivers Metro Parks. We are out in the community explaining to people who we are and what we do and also talk about the levy that is going to be on the levy in just a few short weeks. We have locations spread throughout Montgomery County and one of the things we like to think of no matter where you are in Montgomery County you are just minutes away from a clean, safe metro park. There are 18 metro parks spread throughout the county in addition to the Second Street Market and several conservation areas as well. There is one conservation area right near here which is the Woodman Fen that people can access and walk through in terms of a wetland in a boardwalk area. The great thing about metro parks you can have such a different experience based on which park you visit. If you are at Riverscape, which is more of an urban facility, there will be concerts, events, and festivals going on as opposed to maybe a Germantown metro park, which is much more natural and a lot of hiking would take place there or backpacking, fishing, that sort of thing. It is great that when you go visit a metro park you can such a different experience based on where you are.

We really have three pillars with Five Rivers Metro Parks and everything we do goes back and centers around these three pillars: conservation, recreation, and education. Our conservation staff takes care of a vast majority of the land holding we have. We do manage, own or lease over 16,000 acres in Montgomery County and 90 percent of that is maintained in its natural state. That means it is protected from development; we aren’t developing anything on it, there are no trails or anything else. There are three conservation areas accessible to the public, in other words, they have amenities like parking lots or trails

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where you can go and visit that park. One of those is Woodman Fen as I mentioned earlier; the others are the Medlar Conservation Area, which is in Miamisburg, as well as the Dull Woods Conservation Area, which is over off the Wolf Creek Trail over near Brookville. So our conservation staff what they focus on are these corridors that they can protect for waterways and also for significant tracks of land for wildlife, migratory patterns, and habitats as well. Again, it is those things that contribute to the overall quality of life that we have here in Montgomery County.

Our education staff serves over 300,000 people every year to learn about sustainable living, gardening, canning practices, and other history and education programs we offer at Five Rivers Metro Parks. Many people are focused now on where their food comes from and how they can grow their own food, possibly for survival to feed their family and in other cases it is healthier for them, they know where their food came from. We have seen an uptick in popular classes at our Carriage Hill Metro Park, our historic farm park area, where people want to learn how to can their own food. These arts that were passed down through generations; people are focused on more where their food comes from. We have many programs in our schools where we host 'green school yards'; we will teach children how to grow their own food and then generally have a program where they can then prepare something as well. It really is that farm-to-table experience for many of our students to recognize that in order to eat the food they have to grow the food and it takes work to get there.

Our recreation staff put on a wonderful festival just right down the road from where we are sitting right now a few weeks ago, the Wagner Subaru Outdoor Experience Event, a two-day festival at Eastwood Metro Park. Those types of events people can try their hand at paddling, maybe some kayaking activities, rock climbing, fly fishing and mountain biking as well as a variety of other activities that take place at those events. Our recreation programs are really focused on getting people to be independent users in the parks and to maybe introduce them to these activities on our equipment before they go out and make the investment on their own. In addition to the outdoor experience event, we also host the region's largest bike to work event that takes place at Riverscape Metro Park every May.

In addition to our three pillars, many people do view metro parks as a community asset. We are important to helping support the local economy as well as improving the quality of life for all of Montgomery County. We do communicate regularly and frequently with our users as well as our community residents and we take to them and have adopted a comprehensive 10-year master plan that is guiding the focus of the Five Rivers Metro Parks. This plan really helped us focus our priorities and we are focused on trail connectivity as well as taking care of what we have instead of really expanding or looking for larger parks system there. We have heard from others that people do see us as a community asset important to the quality of life, helping the local economy by attracting visitors as well as businesses to the greater Dayton area.

Finally, I would like to talk about funding for the Five Rivers Metro Parks. We do have a local levy that makes up about 80 percent of our funding. It is voted on by the Montgomery County taxpayers and that levy was approved initially back in 2009 by about 71 percent. That levy is expiring next year and our board of park commissioners has taken steps to put that on the November ballot. It is Issue #6 for Five Rivers Metro Parks. That levy is a replacement levy. Our current levy that is expiring is a \$1.8 mill levy; this is a \$1.8 mill plus a \$0.2 mill levy which will get us to \$2.0 mills in terms of a total millage for Five Rivers Metro Parks. The levy would currently cost a homeowner of a \$100,000 home about \$52/year and it will go up to \$70/year; that was a year not a month. The increase is about \$1.48/month. That is about the cost of a cup of coffee unless you drink the fancy stuff like Starbucks, then it will be like a quarter of that cup of coffee. It is not a lot of money and certainly as I speak to the council, many of you are familiar with the decline in property values we have experienced in Montgomery County. The levy when first passed in 2009 was generating about \$17.9 million every year. Our levy now generates just about

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\$15.9 million. Additionally, we have seen cuts from the state of Ohio to the tune of about \$2.0 million/year. The levy, if it passes on November 6, would actually get us back to within \$200,000 of the levy when it was first passed in 2009. It will actually generate about \$18.1 million total for metro parks.

Mayor Flaute: Is it a permanent or temporary levy? Mr. Tschirhart: I appreciate the question; it is actually only a 10 year span that is how levies operate with park districts in Ohio. They do not have permanent levies currently in park districts; that's up to the legislature if they want to change that. With that, I hope everybody takes the opportunity while there is still out there this fall to get out and explore one of your Five Rivers Metro Parks, maybe go for a hike, and hit the trail that is right outside our door here. It is easy to get out and visit one of your parks, if it is something like the Second Street Market, Riverscape downtown, or Eastwood, which is right over here in our backyard. Again, I want to thank you for your time this evening and your attention. I would be happy to answer any additional questions any of you may have.

Mr. Curp: What is the coordination with the Conservancy District for river recreation? Mr. Tschirhart: So with the Conservancy District they actually permit to us the ability to issue permits for people to be on the river. We work hand-in-hand with them as we are working with local liveries or other groups to provide access to the rivers so we have a permitting process where local retailers or others would be in contact if they maybe want to put in like at Eastwood and do a livery operation on the river, they would come to us for a permit. We work closely with the Conservancy District regarding if there is going to be mowing along the levies or dams; they were actually just at Riverscape the other day testing the flood control mechanism.

Mayor Flaute: The mountain bike trail, that's in Riverside? Is it still doing well? Mr. Tschirhart: It is. Do you remember the name, it's MoMBA; it stands for Metro Parks Mountain Biking Area. It is very close to Huffman Metro Park. If you have not been there in a while, we have actually secured some grants and made some improvements to the facility. There is a restroom facility there now, which is fantastic. There is some water and a bike fix-it station as well as an improved parking area. There is also a tot track for little ones who are just learning to go mountain biking and ride around; they have an experience for younger children that is appropriate to ride around at MoMBA. We are still seeing great usage at MoMBA as well as all of our parks. I neglected to mention that about 3.6 million people visit a metro park every year and we track that through counters within our parks so we can know when people come in they drive over the car counter. We are still getting great attendance at many of our parks and facilities.

**ITEM 13: NOTICE TO LEGISLATIVE AUTHORITY FROM LIQUOR CONTROL**

Major Sturgeon: I was tasked by the Chief of Police to look into the background of the application of the Dollar General liquor permit. I did some research on who owns the corporation, the liquor permit is actually the parent company of Dollar General, DolGen they have several subsidiaries. The permit is going to put into the name of the chief financial officer and the chief executive officer. I didn't dive into any criminal background, but since they are the chief operating officers of a billion dollar corporation didn't see any reason to not push the permit forward and we don't have any problems with any of our other Dollar General stores with any of the liquor violations or anything like that. I just wrote a report to the chief stating there shouldn't be any objection to it.

**ITEM 14: ACCEPTANCE OF WRITTEN CITIZENS PETITIONS:** Mayor Flaute advised citizens to fill out a form if they wished to speak about agenda or non-agenda items.

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**ITEM 15: CITY MANAGER'S REPORT:**

Mr. Carpenter: In the packet is the report, I will be glad to answer any questions regarding information inside there. Mayor Flaute: Are there any questions or comments for the manager? Mr. Fullenkamp: I have a question about the web content filter controls, are you suggesting that porn, violence, weapons, criminal activities, and copyrights were not filtered before? Mr. Lohr: We did not have web filtering before we implemented it with ESID anti-virus software that we have. Mr. Fullenkamp: Is this all that is being filtered now? Mr. Lohr: I am not sure which list you have. Mr. Fullenkamp: It is on the city manager's report. I asked for a list of the sites. Mr. Carpenter: This is what we initially implemented. Mr. Fullenkamp: Is this a sweet spot? Mr. Carpenter: Well, we had to do a few adjustments. Chris is more familiar with all the adjustments currently being made. Do you want to elaborate on the filtering? Mr. Lohr: Sure, as the city manager said that is where we started so that is not the sweet spot. We added some additional restricted areas. I don't have the list with me. Mr. Fullenkamp: Will you send that to us? Mr. Lohr: I believe that has already been sent to council. Mr. Fullenkamp: I have not seen it. Mr. Carpenter: This is what has been sent to council; I didn't have the final updated list because I thought we were making some other adjustments. We will get that to you.

Mayor Flaute: The only other think I had since I knew we were storing records in West Chester, OH, I have been anxious to get them back here; I see in this report thanks to I am sure the efforts of a lot of people including our clerk that they are now here. We have closed that storage unit up and we don't have that expense anymore and I just want to thank anyone and everyone who had anything to do with that. It is high time. Mr. Fullenkamp: I have a question regarding that. Does the clerk have records keeping or records retention training? Ms. Lewallen: I am actually going through that right now.

Ms. Fry: I am noticing we have a nice monthly summary for the fire department, but I looked back at several recent meetings for the police department and I am not noticing we have a monthly summary and there are gaps in the statistic information provided. Should there be a monthly overview in the police department, is there a reason we don't? Mr. Carpenter: I don't know the reason we don't, but we can produce a monthly report. As far as the data, we were including the report update every two weeks that is what was being delivered, we didn't put it in one monthly, but we were doing it in a bi-weekly format. Ms. Fry: One of the recent ones only covered one week and I thought that was odd. Mr. Carpenter: I get them weekly and I put the one week I had, I didn't have the other week at that time, but if you want to see them monthly we can just combine them. Mayor Flaute: The one in the report says 9/27 – 10/11. Mr. Carpenter: That was two weeks; I took the two weeks and combined the two weeks. I get them weekly. Ms. Fry: Are they reported differently between the fire department and the police department? Mr. Carpenter: The Fire Department does it monthly; I don't get them weekly from the Fire Department. Mr. Fullenkamp: Actually, could you do a running tab of these numbers for us so we can see month-to-month variations? Kind of like we do for the tax thing, we could look at different categories and say this is the trend and these are the absolute numbers for the entire year. Mr. Carpenter: We can reformat it and put it in a monthly format. Mr. Fullenkamp: The monthly numbers are important, too, but I think if we could get a graphic that would show us that and we can track that. Thanks.

A) Monthly Update Police Department – Major Sturgeon: Bear with me, it is my first time doing the monthly update, but I think I have it under control. Going back over the past 30 days, I'm going to start with different topics, with the first one as our training area. We spend approximately 10 hours with our evidence technicians this past 30 days doing an advanced and updated training as far as particular types of collection of evidence. A lot of that had to do with our traffic reconstruction team and being more cohesive with our evidence technicians on how to more effectively investigate some of these highway and fatal accidents that are happening and are pretty significant. We went through an update

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with that with an outside agency as well as in house. Our detectives section went through legal updates with the prosecutor's office; Angie French came out and spent eight hours with the detectives on the latest legal updates. We sent two officers through level three traffic crash school at the Ohio State Highway Patrol Academy. That puts them at being one step away from being what they call full-fledged traffic reconstructionists. Some of that is planning for potentially anticipated retirement in the next two years as well as building our traffic team into a larger, more effective operating team. It is a two week traffic school they went to. Our department also went through a quarterly fire arms training; that was a 10-hour day. The focus on that training was use of duty handguns as well as patrol rifles.

As far as community engagement, we continue our partnership that we established about three years ago with Stebbins High School with the internship program. We currently have two interns that are working 20 – 25 hours over the next 30 days and then they have to write a full report back to their teacher on their experience in law enforcement. We try to do that every year, actually twice a year, with Stebbins High School. We just recently participated with the Mad River School system and the STEM night at Stebbins High School this past Tuesday. I am not sure if anybody saw, but we were also involved with the Dayton Daily News (DDN). We were asked to be one of the charter members of the new section that is in the paper, which is their public safety page. There were 10 departments they came to and wanted to focus on. Our article ran October 11 in the DDN; our category was three – four short articles they wanted us to produce for them as to interesting or new things we are doing in law enforcement. I don't know if any of you saw it, I have the file and can email it to all of you or get it to the city manager so you can take a look at it. I tried to print it out, but the typing is really small. Officer Anderson spent some time with St. Helen's 6<sup>th</sup> grade social studies classes; they are focusing on government so we went out and visited St. Helen's school. Lastly on our community engagement, we provided a pre-team game meal for Stebbins High School football team on September 27.

Deputy Mayor Lommatzsch: I understand Beverly Gardens was CBS today and you guys were involved in that? Major Sturgeon: We potentially were going to be involved but then we got axed. They had four minutes on national television. Deputy Mayor Lommatzsch: But it did say Riverside, OH? Major Sturgeon: It did, absolutely. They went live; it was a great event, they just didn't have time to reach out to the law enforcement layer so we made ourselves available and we weren't needed today. Deputy Mayor Lommatzsch: How did that come about do you mind, do you know? Major Sturgeon: I don't know; Chad Wyen reached out to us when they were contacted. I could find out. I'm not real sure; it came from them to us. We do a lot with the schools and we cross-train a lot with them. They do their safety drills and we try to be present at all their safety drills. We have worked hand-in-hand trying to provide them with guidance with their program they have with their armed facility, the teachers in the school and what not. We have a real good relationship with the schools. Deputy Mayor Lommatzsch: Can I ask a question please? Next time something like that is going to happen and you know about it could you fire out emails to us and let us know so we can watch. Major Sturgeon: Sure. Mr. Carpenter: In fairness to Major Sturgeon, he did send something that I didn't see until too late. Deputy Mayor Lommatzsch: I don't like to hear that in the grocery store. Major Sturgeon: I understand, absolutely.

Major Sturgeon: Just to bring up some significant events we have been working on, Cheryl Coker is the missing female we are still involved with, two-and-a-half weeks into that investigation. We are still going full bore on that investigation. Obviously we can't go into the details about what happened, but if there are any concerns, you see a lot of social media about what the police are doing, our detectives are working non-stop on it. They are very effective about what they are doing that is one of the things we are working on. Also today, it had to be kept low-key, but at 1010 Woodman Drive federal agents, FBI, DEA, and state served a search warrant to the medical facility there, Dr. Gupta. We did not find out about that until last minute. I do know it was a two year investigation; it has to do with insurance

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issues and billing. Also, I believe you were updated, but our officers also began doing data entry and technical work on NIBIN (National Integrated Ballistic Information Network). We realized with Montgomery County, we had a problem when you have a shooting scene and a shell casing is recovered, it is a very technical process to identify a shell casing and looking at the print that is left on it when the gun is fired. We were having a problem; we switched from the Miami Valley Regional Crime Lab to BCI that we're not a county, Montgomery County, that they do data input for and research. So we contacted the ATF out of Cincinnati and we have now trained three of our officers to do this and we are now as a courtesy offering to the whole county to take their shell casings and do some of this work. The result is that we have already received two different comparisons off of major shooting scenes in other jurisdictions that have matched up to fire arms within our city.

You were talking about some statistical information, I'm the one who is doing the report I can get you a report any way you want it. I'm the one who is doing it. We do put out a weekly report that I send to the city manager. We can compile it monthly, also; it is no problem to do that. Just to give you some stats from the last 30 days, our guys responded to 1,711 dispatches, 308 traffic stops, 195 traffic citations issued, 80 accidents investigated – 12 of those were injury accidents; they were also in court 99 times over the last 30 days. Deputy Mayor Lommatzsch: You did look good at STEM night; you all did a great job along with the fire department.

B) Monthly Update Fire Department – Chief Dan Stitzel: We were at the STEM the other night and did our prevention table. We provided some football standby's on Friday night and, of course, provided a medic this morning for the event down on Woodman Drive. The crews are busy testing all the fire hoses in the division; our annual hose test is going on. We are working to getting to all the preschools and elementary schools, Sunday schools, to do our fire prevention presentations for fire prevention month. The major and I and one of my crews went out the Forest Ridge Home Owners Association where they are doing a couple Halloween events for their neighborhood kids. We went out there and did a safety inspection for their area. Our fire prevention crew, we did a revamping in there and we have a battalion chief and one of our part-time people have picked up that whole fire inspection thing and they have been working diligently on that. As you may know, La Guadalupana grocery store was finally completed and it's ready to be open soon. The Riverside Senior Lofts final inspection on the three-story building was completed this morning and it passed all fire inspections. We are looking at an increase in our plans review program. When we get plans from the county we go through it and then we look at how they affect the Riverside Fire Department and the City of Riverside then we can make adjustments and recommendations to the county building department. That is something we have always had the ability to do, but in the past people assigned to that function just never got into it very deeply so we are taking a new look at that and getting more involved. We are also doing the professional job shadowing with Stebbins students. We have two students coming over and riding with the medic crews. Later this evening there is a resolution about an Assistance to Firefighters grant application and I wanted to take a minute to mention that. It is the same one as we had last year, the same project that we got turned for, it is for the power cots, and it is about \$195,000 total project; if we get awarded the grant, our share would be about \$17,000. This goes towards the electric power stretchers that we put patients on where we push a button and we lift them up and take them down. It is much safer for our patients than us picking them up and moving them by hand and it is safer for our crews as it has been shown to avoid a lot of back injuries. We are looking for your go ahead this evening that we apply for the grant, if we get it then we will look into the future appropriations of our match. We like to show in the grant paperwork that the council has approved us to go forward with it and it gives us a little bit extra help in the grant approval process.

C) Monthly Update Service Department – Kathy Bartlett: I am going to give the report and Jay is going to answer the questions. As far as current projects that are ongoing, the 2018 paint striping project, the bid winner Airmark, that work is now completed and

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we will be filing for reimbursement from the Montgomery County permissive tax as soon as we receive their final bill. A punch list of items will be gone over with the contractor and Jay will be doing that. The Harshman wall damage, design has been completed by Choice One on what it will take to repair in terms of engineering. We have received one quote and we are getting a second quote from another contractor; we are doing this because in order to get reimbursed by the Army Corp. who did the damage, they require two quotes. We should get that quote within the next week, submit the paperwork and we can move forward with getting that repaired. Mayor Flaute: Do you think it will be done before winter? Is that the plan? Ms. Bartlett: Yes. SR 201 there is a Marathon Pipeline maintenance project, it will be between October 29 – Friday, November 2, we have reached out to other agencies to let them know that SR 201 will have this construction and we put it in our newsletter that went out through Lori Minnich. Mr. Denning: Where along 201? Mr. Keaton: It's right by Lane Gardens, just a smidgens to the south of Lane Gardens; they are going to have to shut the whole road down. We had to do a little bit of work on their detour plan; they wanted to come down Beatrice Drive and maybe use Pleasant Valley and all these are no thru trucks streets so we rerouted them from Stanley up to 202 and around all the way down Harshman Road that way to keep them off our plat streets. That is where that shut down is going to happen. Now there will be additional space for our emergency responders to get through. Mr. Denning: So down there around Lane Garden and Community? Mr. Keaton: Right, pretty close to Beatrice and Lane Gardens. Mr. Fullenkamp: How long will the project last? Mr. Keaton: About a week. Ms. Bartlett: Five days. Mr. Keaton: They are trying to be as quick as possible.

Ms. Bartlett: Airway East, the pre-construction meeting with Booher Construction is scheduled for October 22 at our offices; and then milling is tentative scheduled for October 24. Milling is expected to take four days and paving six to eight days. All this is weather dependent as asphalt can only be put down if the temperature allows. As far as other department activities, we have been doing pot hole repairs, residential and mail thoroughfares, approximately six tons of asphalt patch has been used; durapatching approximately 230 gallons have been applied to the main thoroughfares to prepare for winter. There was a pipe repair in the utility easement on Bayside, which is now complete. Street sweeping, all the mains have been swept, residential areas have been swept once. There were two sections of Community Park fencing repaired by the service department crews; those were invoiced to insurance companies and both drivers, two incidences, are covering wages, equipment and supplies for the repairs. The total was over \$2,600. The trees were trimmed along Woodman corridor. We've continued to do some driveway and right-of-way inspections and currently I am involved in the 2019 budget preparations and planning for the upcoming year. Lastly, we will be getting an application this month for the permissive tax for next year's projects.

Mr. Denning: The crosswalk painting, is that done when the striping contract is done? Mr. Keaton: Are you referring to Airway? Mr. Denning: Yeah, well, any of our crosswalks, some years ago I mentioned it to Mr. Miller and I don't know if it ever trickled down, there is up on Miller Lane where the crosswalks are it is painted to look like cobblestone, and it just gives a nicer look than the standard two lines. I was just curious if we could for next year look into it. If there is a huge cost difference then I don't want anything to do with it, but if it is possible, I think it would make the city look nicer.

D) Monthly Update Planning and Program Management – Mark Carpenter: A little bit of information to share with code enforcement, they have received 29 new complaints in the first two weeks of; actually it is so far through the month of October. They performed 165 follow ups. They continue to work and identify properties that are owned by people who are deceased. Our current count is around 31 of those properties. We are still making sure we have included all of them throughout the city. Planning and zoning, they have processed 14 permits and six have received their final inspections; we are still working on the map to identify all the city-owned properties, and differentiate between ones that are owned by people who are deceased; trying to break it down as much as we

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can. There are also a few plan reviews in the works; at 4215 Linden the former car wash is going to be a hookah, and then 5604 Airway the medical marijuana dispensary and then also at 1654 Brandt Pike, a Dayton Auto Sales; there is also an application for another car lot at 4763 Airway, it is a conditional use for that one. Deputy Mayor Lommatzsch: Another one on Airway? Mr. Carpenter: Yes, 4763 Airway just up near Hayden. There is a little lot, it is a conditional use. It is not a large space. Mayor Flaute: What did you say about the oil change place? Mr. Carpenter: It's a hookah. Mayor Flaute: What is a hookah? Mr. Fullenkamp: Water pipes. Mr. Carpenter: It is a hookah and some smoothies are what I heard. Deputy Mayor Lommatzsch: Smoking water pipes. Mr. Carpenter: Some sort of food is going to be associated with it as well. Deputy Mayor Lommatzsch: A hookah lounge. Mayor Flaute: Well that will be interesting.

**ITEM 16: PUBLIC COMMENT ON AGENDA ITEMS:** Mayor Flaute welcomed Mr. Lloyd Pierre-Louis from Kegler, Brown, Hill, and Ritter LPA to speak.

Mr. Pierre-Louis: Pierce Louis is actually a lot of folks used to call me that because my handwriting is so bad that is what it looks like. Thank you mayor, deputy mayor, members of council for the opportunity to present, I am from the firm Kegler, Brown, Hill, and Ritter in Columbus. I have the privilege of representing Schottenstein Aphria III, they are the licensed dispensary, and they got a license to operate on Airway Road from the Ohio State Board of Pharmacy. I am joined also today by folks from the Schottenstein team, chief council Todd Freeman is here, council Dan Brody is also here and our legal fellow Havi Lopez is also here. In the event there are questions I can't answer, I am sure we can accommodate any questions you may have. I sent the letter; I know you have all seen the comment letter, in opposition to the proposed ordinance. I figured I would give a little context to why we oppose it, but why we think there is a better way to do the oversight the city would like to do. We are not opposed to oversight, in fact, Schottenstein has a history of being a great corporate citizen and been in this community for over 10 years so we certainly want to be able to work with the city and accommodate what your interests are. We received the copy of the ordinance; we immediately looked through it to see what exactly we could do if it was in conflict with what the state board of pharmacy requires us to do. We found there were several inconsistencies between what is in the proposed ordinance and what the regulations require. The board of pharmacy has a very comprehensive set of regs and we saw for example in even who can access the facility and when they can access the facility that is heavily monitored by the state. To accommodate for some of the matters within the ordinance with or without consent we would have to violate the state rules. We took it to the board of pharmacy just to be sure that our analysis was correct and they agreed with us; they agreed there were several inconsistencies. They have not seen or approved our proposed ordinance that we submitted that is not their role. All they care about is that this is inconsistent with what our rules are. We have been working with your city attorney and one of my colleagues, Katherine Cunningham has been very helpful in working with her to see where we can accommodate where your interests are, primarily, and having some oversight and knowing what is going on there and making sure that the folks who are there for medicine are safe and their secure and that the operation are above board. This is obviously a highly regulated industry. My colleague Katherine happens to be a former city attorney as well from the city of Hilliard, a suburb of Columbus, we work very closely with a metropolitan planning organization in central Ohio so we are very comfortable and familiar with what the local government issues are. In our proposal, we are recommending a registration with some notice and we took a lot of the language that was already in the proposed ordinance that we didn't think was objectionable at all. We tried to incorporate what we could so you know what is going on and you would have the ability to conduct civic and administrative duties, which is also part of the existing rules. I put together some bullet points that highlight what is in our proposal what we think accommodates your interests as well as our own. We care about consistency and how the regulations are applied and predictability that is our interest. The state licensed medical marijuana entities situated in Riverside would have to register with the city; the licensee must annually renew that registration, which is consistent with the annual

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registration that was already in your proposal. We would have to provide notice of any pending adverse actions against the license itself so that there wouldn't be any surprises, you would know if the state was taking some action while that activity was happening. You would have to pay the annual registration fee of \$15,000; the state board of pharmacy agrees there is a conflict with the board rules, but obviously one thing you can understand, if there was an issue and the board received a call from a city official that would essentially put regulators on our back that would be problematic in and of itself so there is this constant incentive to comply and be the corporate citizen that they are. This would also avoid the duplication in the state rules. A lot of what the proposed ordinance would do is already being done by the state. One of the rules that the state has issued requires that the licensee to cooperate with local officials during certain investigations that is already part of the duty. There would be in our proposal no impact on your current local authority as it relates to civic or administrative duties. With that as the context and the basis for our proposal we are recommending and requesting that the body would table the current ordinance that is on the agenda, item #18, and consider our proposed registration and notice ordinance. I would be happy to take any questions.

Deputy Mayor Lommatzsch: When would this facility be open? Is this process slowing you down? Mr. Pierre-Louis: This process is not slowing us down. Right now there is quite a bit of construction that needs to happen over the next couple of months. The first that we could open in all likelihood would be January. Deputy Mayor Lommatzsch: The folks out there talking about opening in November or December and I'm thinking I am not sure how that can happen. I just want to be sure that this process isn't slowing you down.

Mr. Fullenkamp: I would like to ask our attorney her opinion. Mayor Flaute: We were going to do that when we get to it, but if you want to do it now. Mr. Fullenkamp: Well, I don't know where and when you think it is appropriate, it seems like we are all thinking along the same lines right now so maybe it is best to continue the conversation. Ms. Grandjean: After speaking with Katherine Cunningham and receiving the letter from Mr. Pierre-Louis, is that correct, and looking at the actual proposed legislation and not minutely examining the state administrative rules, I tend to agree that it is not necessary to have a duplicative licensing process at the local level because of the stringency of the board of pharmacy regulations. If they are in compliance with those regulations then I think that should and probably would satisfy the city that there is adequate oversight, safety, security, concerns and compliance. Again, as he pointed out, we certainly can notify the board of pharmacy if we have any kind of concern or if we observe anything that would, of course, trigger their investigation. If they do initiate and investigate, then the applicant would have an obligation to notify us immediately that there is some kind of investigation going on. I think it may very well make the city's role simpler and avoid the possibility of some kind of conflict with the state regulation. Essentially the state has pre-empted the field here. Either we would demand exactly the same thing or we would simply insure they are in compliance with the state requirements, which is what the registration provides for. Mr. Fullenkamp: So are you going to make a recommendation that we table this tonight and then you are going to look more closely at what they gave to us and make sure it gives us what we need as a municipality? Ms. Grandjean: I started working with Ms. Cunningham last Friday on this and received the proposed registration legislation yesterday afternoon so yes, I think it would make sense to table the legislation that is on the agenda and consider whatever council's pleasure is. Council could consider both at the next session or decide to only consider the registration process.

Mr. Denning: By reading everything I have read through this, we could have the first reading and then replace the 'Exhibit A' with their version or whatever version you come up with at the second reading, is that not correct? Ms. Grandjean: That is not how I read the charter. I believe if there is an amendment to an ordinance then it requires a new reading, I believe that would be a full reading. Mr. Denning: This is 'Exhibit A'. Mayor Flaute: But you are talking about changing. Ms. Grandjean: The exhibit is part of the ordinance so if you change the exhibit you now change the ordinance. But it can be done

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with a suspension of the rules in one meeting. Mr. Denning: If it is not going to slow them down and we can move forward then tabling it is fine with me. I hate to kick the can down the road if we don't have to. Ms. Grandjean: We discussed this that they are fine with it being considered at the next Council meeting. Isn't that correct? Mr. Pierre-Louis: That is correct. Mr. Fullenkamp: Can we have a first and second reading or is there any reason not to have them at separate meetings? In terms of timing. Ms. Grandjean: What is your timing? Mr. Pierre-Louis: We are comfortable, if it's in two weeks, if it's the next meeting, it is not going to slow us down. We have a couple of months before. Mr. Fullenkamp: We have been doing a lot of emergency ordinances and it doesn't seem necessary in many cases.

Deputy Mayor Lommatzsch: This is not relative to the ordinance, this is a question that I have been asked and wondered myself, who manages this facility? Is it a pharmacist, a licensed pharmacist? I mean how is this manned, who is licensed to work in this kind of facility? Mr. Pierre-Louis: Right now all of the prospective employees are going through the licensing process themselves. There will be a pharmacist physically on site as part of the management team. There will be what they call a designated representative and that will essentially be the point person for the facility that would be responsive to questions from the city and questions from the state. Deputy Mayor Lommatzsch: I am talking about the patient that walks in the door that is who I am talking about, who is coming in to buy the product. Mr. Pierre-Louis: The way the program will work is the patient will have a recommendation from a certified physician. Deputy Mayor Lommatzsch: A prescription or a recommendation? Mr. Pierre-Louis: They call it a recommendation because there are some federal implications behind it. The state board of medicine is currently certifying physicians that would be licensed and authorize to recommend medical marijuana for certain conditions approved by the statute. Once that patient has the recommendation from their physician then they are authorized to come into the facility and then they can purchase a product. When they walk in they will work with one of the employees, which could be the pharmacist or could be somebody else who is trained by the personnel on site to then determine which product might work for whatever ailment they have come to have addressed. Deputy Mayor Lommatzsch: How do we verify the recommendation; how do we know it is legitimate? Mr. Pierre-Louis: That is a very good question. All of this is verified by pharmacy rules. Patients would be registered in the OARRS program; there is essentially an electronic feed the state can monitor all of the transactions within the dispensary. I have not seen what the cards look like because the program hasn't started yet, but my understanding this should be very high-tech and be very easy to determine if somebody has a fraudulent recommendation. Moreover, each of the transactions will have a trail that is auditable under the rules so even if there was some deviation or discrepancy between what has been reported to the state or what medication has been sold, if it has gone to the wrong person, all of that becomes immediately reportable that is where local law enforcement would in all likelihood become involved. Deputy Mayor Lommatzsch: I just haven't heard a lot of push back about the facility other than professionals questioning how are we going to know the right people are getting the product versus the wrong people. Mr. Fullenkamp: There is an annual registration requirement for each patient and also for caretakers. Patients are required to register annually and pay a \$50 fee and caretakers are allowed handling of up to two people and they are required to pay a \$25 fee. It is all in the Ohio Administrative Code; I don't remember the section. Mr. Pierre-Louis: (*Chapter*) 3796. Mr. Fullenkamp: There is some good reading there if you are really interested. Mr. Pierre-Louis: The physician's will actually be putting in the patient data.

Mayor Flaute: I am hearing the suggestion that we only do the first reading at the next meeting? Mr. Fullenkamp: We are going to table it, unless we need to move quickly. I don't see a reason to do two readings in one night. Mayor Flaute: Is everyone o.k. with that, I am asking because we need clarity for the clerk to know what we are doing. Everyone is o.k. with having a first reading at the next meeting? Mr. Denning: So this would actually, if it goes to the second reading, the second reading would be at our second meeting in November, right? We would have the public hearing that night. Mayor Flaute:

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Then it is in effect 30 days after that. Mr. Denning: In our case that is Thanksgiving Day? Deputy Mayor Lommatzsch: Yes. Mr. Denning: What date would we actually; we will just have to put it out and make sure we are doing it right that's all? Deputy Mayor Lommatzsch: Our regular meeting night is Thanksgiving. Ms. Lewallen: First and third; it would be November 15. Mayor Flaute: It would be the first and the fifteenth. So then it won't be effective until December 15. Mr. Denning: Is that going to work for you guys? Mr. Pierre-Louis: Yes. Mayor Flaute: So just have the first reading at the next meeting if we table it. Mr. Denning: I just wanted to make sure by doing this the separate reading wasn't going to impact them. Ms. Grandjean: Separate readings don't prevent it from being an emergency ordinance so if it needed to be an emergency it still could be and be effective immediately upon adoption at the second reading. You could make it effective November 15, but Mr. Pierre-Louis indicates that December 15 is adequate. Mayor Flaute: So are you clear? Ms. Lewallen: Crystal. Mayor Flaute: I think I got it. Mr. Denning: Thank you for taking your time to explain it to us.

**ITEM 17: OLD BUSINESS**

**A. ORDINANCES**

**I) Ordinance No. 18-O-672 making supplemental appropriations for current expenses and other expenditures of the City of Riverside, State of Ohio, for the period January 1 through December 31, 2018. (2<sup>nd</sup> reading, public hearing and consideration of adoption)**

A motion was made by Mr. Denning to read Ordinance No. 18-O-672 for the second time by title only and approve its final adoption. Mr. Fullenkamp seconded the motion.

The Clerk read Ordinance No. 18-O-672 for the second time by title only.

Mayor Flaute opened the public hearing. Seeing no one, Mayor Flaute closed the public hearing.

Mayor Flaute asked if there was any discussion by members of Council.

Being none, six were in favor; one opposed, Mr. Curp, nay. **Motion carried.**

**II) Ordinance No. 18-O-674 approving employee position titles, number of positions and pay ranges and to repeal Ordinance 17-O-622, Adopted June 1, 2017, and declaring an emergency. (2<sup>nd</sup> reading, public hearing, and consideration of adoption)**

A motion was made by Mr. Denning to read Ordinance No. 18-O-674 for the second time by title only and approve its final adoption. Mr. Fullenkamp seconded the motion.

The Clerk read Ordinance No. 18-O-674 for the second time by title only.

Mayor Flaute: No this is a second reading (*not an emergency*). Mr. Denning: That's fine; it can still be an emergency and take effect tonight. Mr. Fullenkamp: Why is it important to take effect, tonight? It is a change in the org chart. Mr. Denning: Is that just an extension because we were going to do it on one night? Mr. Carpenter: Yes, I think it was a carryover from last time. Mr. Fullenkamp: Is it critical that we enact this and have it active tonight or is the 30-day waiting period, reasonable? I think we need to let it go and be effective in 30 days.

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Mayor Flaute opened the public hearing. Seeing no one, Mayor Flaute closed the public hearing.

Mayor Flaute asked if there was any discussion by members of Council.

Being none, all were in favor; none opposed. **Motion carried.**

**ITEM 18: NEW BUSINESS**

**A. ORDINANCES**

- I) Ordinance No. 18-O-673 enacting a new Chapter 728, Medical Marijuana Dispensary, to Park Seven of the Business Regulation Code of the City of Riverside, Ohio. (1<sup>st</sup> & 2<sup>nd</sup> reading, public hearing, and consideration of adoption)**

Mr. Carpenter: This is the medical marijuana ordinance.

A motion was made by Mr. Denning to table Ordinance No. 18-O-673 until the next meeting. Mr. Fullenkamp seconded the motion.

Mr. Denning: We will have the law director give a recommendation at that time and straighten us out. Mr. Fullenkamp: Please get us this information as quickly as you can when you have it in good form. I don't want to see stuff a couple of days before the meeting. Ms. Grandjean: It would go out in the weekly packet that would be the plan. Mr. Fullenkamp: Ok, so you are going to work on it for a week. Ms. Grandjean: Unless you want it sooner? Mr. Fullenkamp: No, I just like to see things not the night before.

Mayor Flaute asked if there was any discussion by members of Council.

Being none, all were in favor; none opposed. **Motion carried.**

**B. RESOLUTIONS**

- I) Resolution No. 18-R-2416 approving the solid waste management plan of Montgomery County Solid Waste Management District.**

Mr. Carpenter: This resolution is to approve the solid waste management plan for Montgomery County.

A motion was made by Mr. Denning to approve Resolution No. 18-R-2416. Ms. Fry seconded the motion.

Mayor Flaute asked if there was any discussion by members of Council.

Being none, all were in favor; none opposed. **Motion carried.**

- II) Resolution No. 18-R-2417 declaring a 2004 General Motors Tennant Sweeper and 10' Hiniker Snow Plow to be surplus and no longer needed for City purposes and authorizing its sale by sealed bid, a broker, direct sale to a public entity, or auction.**

Mr. Carpenter: This resolution is to declare some surplus equipment that we want to sell, a Tennant Sweeper and also a 10' Hiniker snow plow blade.

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A motion was made by Deputy Mayor Lommatzsch to approve Resolution No. 18-R-2417. Mr. Denning seconded the motion.

Mayor Flaute asked if there was any discussion by members of Council. Mr. Curp: So why do we not need the blade? Mr. Keaton: It is extremely old; it doesn't maneuver anymore. It was for a piece of equipment many years ago and doesn't fit anything we have anymore. Mr. Denning: So we could have surplused this two years ago? Mr. Keaton: Ummm, no; well, yes, we could have.

Mayor Flaute asked for any other questions or comments. Being none, all were in favor; none opposed. **Motion carried.**

**III) Resolution No. 18-R-2418 authorizing the City Manager to submit an "Assistance to Firefighters Grant" (AFG) application for the purchase of power EMS cots for use by the Fire Department.**

Mr. Carpenter: This resolution an authority to submit an Assistance to Firefighters Grant for the purchase of power cots.

A motion was made by Mr. Denning to approve Resolution No. 18-R-2418. Deputy Mayor Lommatzsch seconded the motion.

Mayor Flaute asked for any other questions or comments. Being none, all were in favor; none opposed. **Motion carried.**

**ITEM 19: PUBLIC COMMENT ON NON-AGENDA ITEMS:** There were no public comments on non-agenda items.

**ITEM 20: COUNCILMEMBER COMMENTS:**

Mr. Denning: The matinee for the haunted house is this Saturday from noon – 4:00 pm, rain or shine. I know that right now I believe we have the fire department dismantling a car as that is training for them and fun for us to watch and I know the police department is having the canine there to do a track and bite demonstration. I am not sure who is going to be in the bite suit yet. Bill, if you show up, we got some place to put you. Mayor Flaute: But you have experience though. Mr. Denning: Yes, I have. For those that have children ages 2 to how old are you Sara? Children that are afraid to go inside the house with actors in there, this is kind of a show-and-tell for younger folks to see if they are ready to go in the haunted house. For those older than that and still are afraid to go inside the house. Deputy Mayor Lommatzsch: Stop it. Mr. Denning: It is a fun kind of a mini-festival type thing for folks to come to. There will be the fire department and police department as well as other folks having tables there. The kids go through and trick-or-treat, get candy, and see how the haunted house works so it will be a lot of fun. Noon to 4:00 pm, it is \$3 to get in and that money helps pay for kids for Christmas that we buy for under privileged kids and if you bring a non-perishable food item you get \$1 off of that price.

Deputy Mayor Lommatzsch: I would like to again say the STEM night as always was a really big success. The police and fire were very obvious and I think it is really important for the children to see they are real people. We all learned that we need to sleep with your bedroom door shut, whoever knew that, but it ups your life expectancy by 1000 percent or some large number so I started shutting my door. I would like to thank those members of council who have come forth and supported our efforts in getting the signs done and getting them out. We have requested that everyone provide some sign locations; we started working that today, we do need some help with that. We do not want to put them in the public right-of-way so we need it on private property. If you could please see me, we could get signs and we need to get them blitzed in the city this weekend. We are three weeks

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away and we can't wait a week. We need to have all of those hundred signs out there. I would like to thank that the CWA came through today the Chamber has donated. Next Saturday is a Halloween event in Forest Ridge. It is a great opportunity; we can get a flyer together by then and I need some help, I would like to have council members walk the line, the parade route on both sides. It is not a long walk and pass out some flyers, answer questions, and meet and greet. Brenda tells me it starts at 11:45 am. Ms. Fry: 11:30 a.m. Deputy Mayor Lommatzsch: Anyway, 11:30 am, any of you who would be available to help on that day and be visible at the Halloween event in Forest Ridge and any other public event that is taking place in the next three weeks, please make us aware, we can be present, we can have information. Our last informational meeting is the 25<sup>th</sup> at Brantwood School at 6:00 pm and we will have snacks. We are getting a lot of good feedback from our meetings and appreciate the support. If you have any other ideas, any places we can be, any church festivals, please make us aware and help us get the word out and answer questions and share information with the community.

Mr. Denning: Hometown Holiday is November 10. Deputy Mayor Lommatzsch: Absolutely, but we have another meeting before then. Mayor Flaute: So the parade is on the 27<sup>th</sup> at 11:30 am. Deputy Mayor Lommatzsch: Yes, and Hometown Holiday is taking reservations for vendors and the time has changed a little getting out of the late night. Mr. Denning: It is 3:00 – 7:00 pm. Santa will be there at 3:00 p.m. Deputy Mayor Lommatzsch: Instead of 4:00 – 8:00 pm. If you are interested in having a booth those are available, you need to let us know ahead of time at the Chamber. Thanks.

Mr. Curp: The Forest Ridge parade is a non-political event so we would have to check with the homeowners association to see if we can do the things you are talking about doing. They forever and ever have been a non-political event. Deputy Mayor Lommatzsch: They didn't want candidates, but we will do that.

Mayor Flaute: I just have a couple here, I did eight weddings recently. Also, the Mayors and Managers Association voted to oppose Issue No. 1, and suggested communities do the same. I know if we do that at the next meeting it will be getting close to Election Day, but is there any interest in council to oppose Issue No. 1? Mr. Fullenkamp: No. Mayor Flaute: O.k. the Mayors and Managers have appointed me to review all the project applications for bridges and roads and all of that in District Four with the Montgomery County Engineers so I did that last Wednesday and that was a big job trying to decide which ones are more important than others. Riverside's is on next week. Mr. Carpenter: The 24<sup>th</sup>; the OPWC, I think it is the 24<sup>th</sup>. Mayor Flaute: I went to an event called Declare Dayton, which was at 5<sup>th</sup>/3<sup>rd</sup> Field; they invited all the mayors for a prayer service with all the pastors in the Miami Valley. There were probably 3,000+ people there; it was quite a big event. I also on your behalf presented a congratulatory proclamation to Juanita Ballard. Juanita has become the president for the 3<sup>rd</sup> district of the American Legion. She is quite a woman, and we presented her with that. Some of you might remember her; she comes to all the InCrowd events. She has very long fingernails. She is a very good lady. InCrowd was the last one we are having this year at the Eintract and we had a very good crowd there and appreciate everyone who came out for that.

Mr. Denning: We have citizen from our community that is going to be on American Idol. Adam Vanhose was invited to go to Louisville in the next few weeks. Very good young man, he was one of my haunted house kids some years ago, I have a bit of a soft spot in my heart for him. He has pipes, the boy can sing. Any support, even if it is a pat on the back, he lives over on Bayside so. Mayor Flaute: Make sure when they introduce him they say Riverside. Deputy Mayor Lommatzsch: Ohio. Mr. Denning: I don't know how far he is going to go, but we may need to do some hometown hoopla. Mayor Flaute: Sometimes they make videos of your hometown. Mr. Denning: Right, think about being ready for that.

*From the audience – A citizen made a statement having an incomplete agenda. A staff member had made a copy and the back side of the first sheet was not copied.*

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**ITEM 21: EXECUTIVE SESSION:** A motion was made by Mr. Denning to enter into executive session for purposes allowed by law: Codified Ordinances Section 103.01 (d)(7) – *To receive and consider from an applicant for a permit, license, variance, zoning change or other similar privilege granted by the City, the following information confidentially received from an applicant: C. Production techniques and trade secret.* and 103.01 (d) (1) – *Unless the City employee or official requests a public hearing; to consider the appointment, employment, dismissal, discipline, promotion, demotion or compensation of a city employee or official or the investigation of charges or complaints against a City employee or official.* Mr. Curp seconded the motion. On call of the roll: Mr. Denning, yes; Mr. Curp, yes; Ms. Campbell, yes; Ms. Fry, yes; Mr. Fullenkamp, yes; Deputy Mayor Lommatzsch, yes; and Mayor Flaute, yes. The Council entered into executive session at 8:21 pm.

**ITEM 22: RECONVENE:** The Council came out of executive session at 8:45 pm.

**A. RESOLUTION**

**I) Resolution No. 18-R-2519 authorizing the City Manager to enter into a lease agreement with Nokomis, Inc.**

Mayor Flaute: Mr. Fullenkamp is absent for this vote.

A motion was made by Mr. Denning to approve Resolution No. 18-R-2519. Mr. Curp seconded the motion. All were in favor; none were opposed. **Motion carried.**

**ITEM 23: ADJOURNMENT**

A motion was made by Mr. Denning to adjourn. Deputy Mayor Lommatzsch seconded the motion. All were in favor; none were opposed. The meeting was adjourned at 8:46 pm.

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William R. Flaute, Mayor

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Clerk of Council