

# Village of Harveysburg

## Village Council

April 10, 2023 – 7:00 PM

### Present:

- Mayor Richard Verga
- Jim Nelson – Councilman
- Pat Bennett -- Councilman
- Kim Herberth – Councilwoman
- Randy Carruthers – Councilman
- Charles Juniel – Councilman
- Mark Tipton – President of Council

### Absent:

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### Village Staff Present:

- Chase Kirby – Village Solicitor
- Richard Pottenger – Police Chief
- Mary Wilkie – Fiscal Officer
- Heather Matuszak – Clerk of Council

### Visitors / Guests:

- Charles Camp – Harveysburg Resident
- Alma Plummer – Harveysburg Historical Society Member
- Dave Crisenberry – Harveysburg Historical Society Member
- Debbie York – Harveysburg Resident
- Rebecca Godfrey – Harveysburg Resident
- Jodie Black – Harveysburg Historical Society President
- Leroy Sanders – Harveysburg Resident

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*This is a summary of the meeting of the Harveysburg Village Council held April 10, 2023, at 7:00 PM.  
Upon request, a recording of the meeting is available for review.*

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Mayor Verga calls the meeting to order at 7:00 pm.

Roll Call: Nelson, Bennett, Herberth, Carruthers, Tipton, Juniel, Mayor Verga

### Disposition of Previous Minutes:

Motion made by Mr. Tipton to approve March 27<sup>th</sup> Council Minutes as written. Second by Mr. Bennett.

Vote – Nelson, Bennett, Herberth, Carruthers, Tipton, Juniel – Aye/ Nay – None. Motion passed.

**Mayors Report:** Mr. Verga

Mayor Verga reports that he has spoken with a realtor from Texas who is interested in purchasing 2.5 acres on Old 73 to build a Dollar General. However, during the Streets and Buildings meeting he was informed that this piece of property is effectively landlocked because the Village vacated the easement to landowners in 2005 for reasons unknown.

**President of Council Report:** Mr. Tipton

NONE

**Fiscal Officer:** Mrs. Wilkie

Mrs. Wilkie reports that the auditor is scheduled to come on Wednesday. She has passed out a questionnaire to Council members that is to be completed and returned to the auditor. She also needs the public records certificates from the remaining members of Council to provide to the auditor.

Mrs. Wilkie states she is \$0.45 off on bank reconciliation so she does not have that for this meeting.

Mrs. Wilkie states she spoke with Workman's Compensation today about how to address our auxiliary officers.

Mrs. Wilkie reports that before this meeting began, the ceiling of the women's restroom fell in due to a leak. We will need to assess what needs fixed and budget the money for repair.

Motion made by Mr. Nelson to pay bills. Second by Mr. Bennett. Vote – Nelson, Bennett, Herberth, Carruthers, Tipton, Juniel – Aye / Nay – None. Motion passed.

**Village Attorney Report:** Chase Kirby

Mr. Kirby reports that he has yet to receive a response from the insurance company regarding the police cruiser. He tells Mrs. Wilkie to void the initial check they sent us because we are not settling for that amount.

Mr. Kirby states that we will need to enter executive session at the end of the meeting for the remainder of his update regarding pending legal action.

**Guests:**

Dave Crisenberry makes a statement on behalf of the Harveysburg Historical Society. The Historical Society would like to find a way to move forward. Mr. Crisenberry reminds Council that there has been a year and a half of communication with no resolve. He provides the Council with copies of all

communication between the parties that span a year and a half. They received a very generous offer of a new HVAC system to be installed at no cost to them that would make a great impact on preserving the history held within the building and yet they cannot be approved for the permit. He states the Historical Society received a time sensitive grant of \$300k+ that is in jeopardy due to not being able to move forward with anything on their building. He points out section 1011 in our zoning book that outline the powers and duties of the Village Council and specifies #4: Override a written recommendation of the planning commission on a text or map amendment provided that such legislative action is passed by a vote of not less than 3/4ths of Village Council. He suggests that a specialized zoning be added for the Historical Society as it is still zoned as R1.

Mr. Kirby responds that he and Mr. Fellerholff, the Historical Society attorney, agree that this can be resolved amicably.

He reads the letter received from Mr. Fellerholff that outlines their position and cites a statement they received from the Building Official at the time of the incident, Tim Campbell. The Building Official statement says permission was received from the Mayor at the time to place the parking area without a permit. The letter states there are two resolutions, first the whole ordeal can be forgiven and moved on, or second, the Village can pay for the removal of the blacktop and provide backpay for the Historical Society allowing the use of their land as a staging area. Mr. Fellerholff also believes the ORC that does not allow another permit while one is in jeopardy does not apply to this case but is geared more toward home developers.

Mr. Kirby agrees that the ORC that does not allow a permit while another is in jeopardy does not apply in this case, and the Historical Society should be able to proceed with their HVAC system considering that permit is completely unrelated to the parking area. He believes the proper place to address the issue is still the Planning Commission.

Mayor Verga states he has no memory of having a conversation stating that a permit was not needed. He states he would've told them he was unsure and to check at the front office where the zoning permit sheet is located.

There is contention that the stop work order is not considered a written recommendation.

Mr. Tipton points out in section 1010 that states the Village Council shall not include hearing and deciding such questions of interpretation and enforcement. He has forwarded the information Mr. Fellerholff provided to Mr. Rivera and it has changed his attitude about the situation. He states it the parking lot was discussed previously as a public nuisance, but with the different circumstances revealed it has changed his opinion. Mr. Tipton states that Mr. Rivera stated we need to add "due process" language to our zoning ordinance as soon as possible and he forwarded the verbiage to Mr. Tipton.

Debbie York suggests it be considered as a handicap parking improvement. It previously had a handicap parking sign and has been used as such for years before the asphalt was placed.

Rebecca Godfrey asks if they would have to get another permit. It is stated that they never received a permit because it had been denied. Mayor Verga states that Mrs. Wilkie did find the receipt of the deposit in the Village bank account. If the money was not refunded, then that money will apply to the new permit, and they will not have to pay a second time.

Jodie Black states she received a phone call that gravel had been laid out and people were upset. She states she asked Mr. Cochran what they could do to make it right if there was something they had done wrong. She states he told her to fill out the permit and it would be no issue.

Charles Camp suggests they apply for an HVAC permit again so that at the next Planning Commission meeting if the decision is made to allow that then they can move forward quickly.

Alma Plummer states they used that as a parking area for 40 years without issue and the zoning book states it is not a parking lot if it's 5 spaces or less.

Leroy Sanders asks how soon we will get this resolved. Mr. Kirby is hopeful that at the next Planning Commission meeting it will be resolved.

**Old Business:**

Mr. Tipton reports that the Tire Recycling event on April 29<sup>th</sup> at the Wayne Twp garage for drop off. He would like approval for Joe to receive overtime pay to pick up and drop off tires for Village residents.

Motion made by Mr. Bennett to approve 4 hours of pay for Joe Nelson to collect residents' tires and take them for recycling. Second by Mr. Juniel. Vote – Bennett, Herberth, Carruthers, Tipton – Aye / Abstain – Nelson, Juniel. Motion passed.

Mr. Tipton reports that the Trebel Electric aggregation contract goes into effect in June. Depending on everyone's billing schedule, you may see the change in June or the beginning of July.

Mr. Tipton reports that the trash service bid public notice advertisement was placed at no cost to the Village by Warren County Solid Waste.

Mr. Tipton states he sent everybody the proposed zoning ordinance changes from Mr. Rivera. The changes include due process language, and it will be discussed at the next Planning Commission meeting.

Mr. Tipton provides the new fee schedule that was approved by the Planning Commission. They need the approval of the Council.

Motion made by Mr. Tipton to approve the new zoning fee schedule for the Village of Harveysburg. Second by Mr. Juniel. Vote – Nelson, Bennett, Herberth, Carruthers, Tipton, Juniel – Aye / Nay – None. Motion passed.

Mr. Carruthers reads Ordinance 2023-01: Fee schedule for Village of Harveysburg Building Inspection Department. This is the first reading.

Motion made by Mr. Tipton to declare Ordinance 2023-01 an emergency and waive the three readings. Second by Mr. Juniel. Motion retracted after guest Charles Camp asks they allow time for resident input.

**New Business:**

NONE

**Police:** Chief Pottenger

- Vehicle #2 has a charging issue that may be related to the alternator. Vehicle #1 is running well.
- Chief Pottenger comments that they had a great time participating and watching the Easter Egg hunt.
- Grants open in May.
- The prosecutor's office will distribute the forms for Marsy's Law to the PD. Marsy's Law provides that victims of violent crime have the same rights as the accused and convicted.

**Community Relations** – Ms. Herberth

NONE

**Committees:**

- Community Relations – None
- Finance - 4/24 at 6:30pm
- Grants - None
- Planning and Zoning – 4/26 at 6:30pm
- Records - 4/20 after court
- Trees - None

Motion made by Mr. Carruthers to enter into executive session regarding pending court action. Second by Mr. Juniel. Vote – Nelson, Bennett, Herberth, Carruthers, Tipton, Juniel – Aye / Nay – None. Motion passed.

Executive session began at 8:38pm and the public was asked to exit the Council chambers.

Motion made by Mr. Juniel to exit executive session. Second by Mr. Carruthers. Vote – Nelson, Bennett, Herberth, Carruthers, Tipton, Juniel – Aye / Nay – None. Motion passed.

Executive session ended at 8:50pm and Council chambers were opened to the public.

Motion made by Mr. Nelson to adjourn at 8:50pm. Second by Mr. Juniel. Passed by voice vote.

Attest:

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Heather Matuszak, Clerk of Council

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Mayor Richard Verga

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Mark Tipton, President of Council

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Kim Herberth

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Randy Carruthers

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Pat Bennett

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Charles Juniel

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Jim Nelson