

# Village of Harveysburg

## Village Council

November 14, 2022 – 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:

### Village Staff Present:

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

### Visitors / Guests:

- Shonta York – Harveysburg Resident
- Russ Wilson – Harveysburg Resident
- John & Claudia Kozak – Harveysburg Residents

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*This is a summary of the meeting of the Harveysburg Village Council held November 14, 2022, 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 7:00pm.

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

### Disposition of Previous Minutes:

Motion made by Mr. Juniel to approve October 24<sup>th</sup> Council Minutes as written. Second by Mr. Tipton.  
Vote – Nelson, Bennett, Herberth, Carruthers, Tipton, Juniel – Aye/ Nay – None. Motion passed.

**Mayors Report: Mr. Verga**

Mayor Verga states the communication between the Village and the community is lacking. He has received multiple calls about when Halloween or leaf pickup would be. He also received calls after voting about never knowing about the levies that were on the ballot. He would like to go back to passing out fliers to the community about events or important information within the Village along with online communications.

Mayor Verga states we owe thanks to Mrs. Wilkie for getting the levies on the ballot a year early. They failed this year, but it gives us a year to recover so we can better communicate with the Village about what the levies encompass. He suggests next year we look into having two separate levies: a renewal and an increase.

Mr. Tipton adds that there is a House Bill coming through the Ohio House and Senate that will be for a levy or income/property tax. It will require the municipality to send a letter through the Auditors' Office to each taxpayer stating what the impact of the new levy or tax will be upon the individual.

Mayor Verga states there is no change on the Black School issue. He states a couple meetings ago it was voted to waive the BZA fees for the Black School. However, he states Michelle Cochran, President of the Planning and Zoning Commission has said they cannot take it to the BZA and the Village must take them to court because of their outstanding violation. He states we may take it to court and win, but we would lose in the court of public opinion.

Mayor Verga states the red house has had an attempt to cut the grass at the lot, but it looks worse than before. There were also 4 junk cars in the back of the lot and one car has been removed. Mayor Verga also states he has been unable to contact the owner of the Old Hotel despite multiple efforts.

Mayor Verga states at the last Planning Commission meeting, Michelle Cochran stated they will not be writing a new zoning book until the Village finds a Zoning Enforcement Officer to enforce the Village zoning codes.

Mayor Verga asks Mr. Tipton if anything has been done since the last meeting regarding this. Mr. Tipton states that she was requesting Mayor Verga find a zoning enforcement officer.

Mr. Bennett asks what sparked the sudden need for a zoning enforcement officer. He states at one time Chief Pottenger filled that role and wants to know who has been filling that role since Chief Pottenger stepped down. Mayor Verga states nobody has filled that role since Michelle found Chief Pottenger to be unsatisfactory for the position. Mr. Tipton states that former Village Solicitor, Mark Webb, explained that the Planning Commission could give any notices/violations to Chief Pottenger to deliver to residents so essentially the Planning Commission was acting as zoning enforcement.

Mr. Carruthers states that after talking to Michelle, it was his understanding that she did not want to rewrite a zoning book that was not being enforced. As the President of Planning Commission, she is frustrated that our codes are not being enforced and does not see the time being taken to rewrite a zoning book until we have someone in place who will begin enforcing zoning codes.

*[Disagreement between Council Members over the outstanding Black School issues. This discussion is not transcribed due to it being discussed multiple times before and no resolution has come during this meeting. Council Member Randy Carruthers exits meeting.]*

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

Mr. Tipton states the Trebel electrical aggregation was passed in the Village and Massie Twp. It will be approximately 4-6 months before we see any impact. That is how long it takes to work through the system and get the paperwork done. It will be an opt-out program. All the information will be mailed to residents, and it will provide the option to opt-out of the aggregation program.

Mr. Tipton states he has followed up on the region 14 governance structure which is the opioid settlement. The Village is set to receive approximately \$2,800. He states the last thing he needs to do is get into the access portal which he will work with Joe on doing.

Mr. Tipton would like to acknowledge the road crew for their recent efforts. Joe worked overtime for the Main St. storm sewer repair. Bill and Joe have driven back and forth to Grove City and Miamisburg for different plow truck installations.

Mr. Tipton states leaf pickup is complete. He thanks the Wilkie family for allowing the Village to dump leaves on their property and saving the Village \$300-400 in disposal fees.

**Fiscal Officer:** Mrs. Wilkie

Mrs. Wilkie states that she and Kim Herberth met with Tia DeHaven for the cleaning position posted on Facebook. She states Phil Trovillo had no problem with her beginning work right away if Mrs. Wilkie and Ms. Herberth approved of her employment. Ms. DeHaven was available to start immediately and began cleaning the whole gym that day. She has already made a significant impact with how everything looks and has stayed within the 4-hour-a-week timeframe. While cleaning, it was discovered there were dead mice in the kitchen area. That has been cleaned and pest control came out for treatment. Ms. Herberth also mentions that we will need to replace one of the toilet seats in the men's restroom due to the seat being completely cracked.

Mrs. Wilkie states she received the bank reconciliation reports. The state just finished the Massie Twp audit, and the village audit is set for January 2023. Mrs. Wilkie mentioned to the auditor that the Village is trying to qualify for the ADP audit. The Village should be \$15k and the Mayor's court has been reconciled for the last year and a half.

Mrs. Wilkie states that we need to sell the sodium lights that were removed from the gym.

Motion made by Mr. Tipton to sell the 10 sodium lights on GovDeals. Second by Mr. Nelson. Vote – Nelson, Bennett, Herberth, Tipton, Juniel – Aye / Nay – None. Motion passed.

Mayor Verga asks if we have the gym booked for December. He states he received a complaint from someone who wanted to hold a Christmas party and they said \$28/hr was too high. He wants to make sure we aren't pricing rental above what is reasonable. Council members agree that \$28/hr is not too high when propane and electric costs are figured into the rental costs. Ms. Herberth states there has been plenty of interest shown on Facebook after the post made about gym rental.

Motion made by Mr. Nelson to pay bills and accept the bank reconciliation. Second by Mr. Juniell. Vote – Nelson, Bennett, Herberth, Tipton, Juniell – Aye / Nay – None. Motion passed.

**Village Attorney Report:** Chase Kirby

Mr. Kirby states he received a request to complete a contract of employment for Tia DeHaven and will have that completed soon.

**Guests:**

Shonta York brings before Council a recall petition to remove Mark Tipton from the Harveysburg Village Council. The petition cites Ohio Revised Code 705.92 and states the reason for removal is overstepping his bounds as a Council Member. The examples cited include attempting to take over a police investigation, attempting to take over Village administrative functions (demanding that a private property owner stop making an improvement to his property), and attempting to act as a zoning and building inspector. Ms. York hands the petition to Village Solicitor Chase Kirby and provides copies to the members of council.

Ms. York claims that Mr. Tipton told a resident he could not pour concrete on his property when the resident did not need a permit. She claims Mr. Tipton told multiple people they could not set up the night before the yard sales.

Mr. Tipton states he has only approached residents when a stop work order had been issued by the President of Planning Commission. Regarding the concrete, it was reported to him by the President of Streets & Buildings that construction was going on behind Tim Hill's residence. Mr. Hill told Mr. Tipton that the concrete pad was included in the original permit for his garage. Mr. Tipton was able to confirm this after looking at the previously issued permit and there were no further issues. He can provide email proof of communications between himself and Tim Hill about Mr. Hill becoming a part of the Planning Commission to show a cordial relationship.

Mr. Tipton states he never told residents they could not set up the night before the yard sales.

Ms. York asks what authority Mr. Tipton has to enforce zoning or take over police investigations. Mr. Tipton states he has only been a proactive resident and proactive councilman. Mr. Russ Wilson makes a statement, "I'll tell you what Mark, show up on my property like that. Show up on my property."

Mr. Tipton states he did not attempt to take over a police investigation. He did not report it until he had gathered all the necessary information to report.

Ms. York states she thinks Mr. Tipton is a good councilman, but he oversteps his bounds. Ms. Herberth asks if Ms. York thinks he is a good councilman, why does she want him removed? Ms. York states he oversteps and is too authoritarian.

Discussion regarding a zoning violation list that Mr. Tipton has compiled. He has agreed to give the list to Mayor Verga so he can reach out and start addressing violations. If violations are not addressed the violations will be given to Mr. Kirby for official letters to be sent out.

Mayor Verga asks Mr. Kirby what his next steps are with the recall petition. Mr. Kirby states the primary method of removing a public official is the ballot box. Someone can run against Mr. Tipton and raise the issues that they do not like in order to effect change. Another way of removal is Ohio revised Code Section 3.08, which files a complaint in the Common Pleas Court and have a trial within 30 days. The judge will hear the facts/evidence and you must show non-feasance or malfeasance from the elected official. He states he is currently involved in a case for the removal of a public official and it is a difficult process.

Mr. Russ Wilson interrupts Mr. Kirby stating, "Get to the point. Please, get to the point. Are you telling us this isn't good? Is that what you're getting at." Mr. Kirby asks, "Can I speak?" Mr. Wilson says, "Please, but move." Mr. Kirby explains he has a Village that he must give legal advice to so if he would be allowed to do that it would be appreciated. Mr. Wilson continues to interrupt stating, "Please, do it. Do it." Mr. Kirby tells Ms. York that he will not provide her with legal advice on how to move forward, but section 3.08 is how they will move forward.

Ms. York takes her petition back from Mr. Kirby and leaves the council meeting.

Mr. Kirby reiterates that his duty lies with the Village, and he will not provide legal counsel to a resident on how to have a council member removed from office. It is the resident's responsibility to find the path forward and retain any legal counsel necessary.

Guest John Kozak asks if there are vacancies on Planning Commission that could be filled to help things move forward. It is explained that the commission itself has no vacancies. The open positions require employment, and the Village doesn't have the money to fill these positions currently.

Ms. Herberth makes a statement for the record, when everything started, Ms. York was sitting in front of Ms. Herberth's house for an extended amount of time when the little girl from next door was over. Ms. Herberth was not aware of who was sitting in front of her house at the time. When she got closer to the vehicle she realized it was Ms. York and at that point Ms. York drove away. Ms. Herberth then went to Ms. York's home and asked if they could talk. Ms. York stepped out and Ms. Herberth asked what her petition was about. Ms. Herberth states that the response was "to get rid of that Mark Tipton." Ms. Herberth states that she doesn't think Ms. York knew at that time that Ms. Herberth and Mr. Tipton knew each other. Ms. Herberth asked why Ms. York wanted to get rid of Mr. Tipton. Ms. York said he was doing all kinds of bad stuff in the Village, and he shouldn't be on council. Ms. Herberth asked if Ms. York had ever been to a council meeting and Ms. York said she had not. Ms. Herberth asked if Ms. York had ever met Mr. Tipton and she said no. Ms. Herberth asked her where she received her information from, and Ms. York told Ms. Herberth who had given her information. On another occasion, Ms. York was talking to a resident while Ms. Herberth was putting up letters in front of the building, Ms. Herberth could hear what was being said and much of it was untrue. Ms. Herberth went and stood with them while Ms. York talked to the resident and many of the things continued to be untrue to include Ms. York saying Ms. Herberth went to her house and yelled at her. Ms. Herberth reiterates that the things she has heard Ms. York say are untrue or are hearsay.

**Old Business:**

NONE

**New Business:**

Mr. Tipton asks Mayor Verga what he sees as the path forward with Dave Ashcraft and the Renaissance Festival.

Mayor Verga states that the \$90k the Village brings in from ticket proceeds would be reduced by half if we lost the Renaissance Festival because the roadway in front of it would go to Massie Twp and Harveysburg PD would no longer be allowed to ticket people from violations on that stretch of roadway. Mayor Verga does believe Mr. Ashcraft wants to detach.

Mr. Tipton states it will come to a vote in Council on whether the Village will allow Mr. Ashcraft to detach. He wants to know if Council will allow this detachment. He thinks the Village should fight the detachment. He has spoken to trustees of different cities and lawyers separate from the Village and the consensus is we can stop the detachment. It will be a very difficult process for Mr. Ashcraft to detach unless we let him.

Mr. Tipton presents the benefits of an admissions tax and the current contract that specifies payments being in lieu of admissions tax. Mr. Tipton has authored an admissions tax and with Council recommendation he would like to give it to Mr. Kirby to look over and make necessary changes. If it is approved by Mr. Kirby, Mr. Tipton believes we should have executive sessions to discuss our way forward with this.

Motion made by Mr. Nelson to present Mr. Kirby with the paperwork for an admissions tax at the Renaissance Festival. Second by Mr. Juniel. Vote – Nelson, Bennett, Herberth, Tipton, Juniel – Aye / Nay – None. Motion passed.

**Police:** Chief Pottenger

-Vehicle #3 is officially totaled and has been placed in the garage so it can be stripped of all equipment and radios. Vehicle #2 was involved in a minor fender bender on October 29<sup>th</sup>.

-Next local event will be the Christmas party on December 9<sup>th</sup>.

-Still citing speeds over 70mph on SR 73.

-We are working on grants for equipment.

-We are looking for officers, but like many local agencies, having a hard time finding applicants.

-The Halloween party went well, and we had approximately 80 children attend. Trick or treating also went well and traffic was managed for the safety of those out that night.

**Community Relations** – Ms. Herberth

Ms. Herberth states we are 2 weeks away from setting up the Christmas party and she just wants to make sure items are removed from the stage so it can be set.

**Committees:**

Community Relations – Meeting 12/5 at 7:30pm

Finance - Meeting 11/28 at 6:30pm

Grants - None

Planning and Zoning – 11/23 at 6:30pm

Records - Meeting in December

Trees - None

Motion made by Mr. Nelson to adjourn at 9:36pm. 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