**ITEM 1: CALL TO ORDER:** Mayor Flaute called the Riverside, Ohio City Council Meeting to order at 6:00 p.m. at the Riverside Municipal Center located at 1791 Harshman Road, Riverside, Ohio.

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

Staff present was as follows: Bryan Chodkowski, City Manager; Bob Murray, Planning and Economic Development; Mitch Miller, Service Department; Mark Reiss, Police Department; Bob Turner, Fire Department; and Bob Gillian, Finance Department.

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

**ITEM 4: ADDITIONS OR CORRECTIONS TO AGENDA:** The agenda was revised prior to the meeting to remove “c” of item 11, Presentations.

**ITEM 5: APPROVAL OF AGENDA:** A motion was made by Deputy Mayor Denning to approve the agenda as revised. Mr. Schock seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 6: WORK SESSION ITEMS:**

1. Board & Commission Interviews

Council spoke with Mr. Hal Nielsen and Mr. Chuck Evanhoe whose terms on the Board of Tax Appeals will be expiring in April. Both Mr. Nielsen and Mr. Evanhoe asked to be reappointed to serve an additional term. Mayor Flaute thanked them for all they do.

Following the interviews, a motion was made by Deputy Mayor Denning to bring forward legislation to reappoint Mr. Hal Nielsen and Mr. Chuck Evanhoe to the Board of Tax Appeals. Mr. Schock seconded the motion.

Mayor Flaute asked if those appointments filled the Board of Tax Appeals. The clerk said yes.

With no further discussion, all were in favor; none were opposed. **Motion passed.**

b. Discussion: Zoning Code Rewrite

Mr. Chodkowski said as you all know we embarked on this endeavor quite some time ago. He said he has comments from the Law Director and if council was interested, he would be happy to share. He said most notable of her comments were formatting issues, four missed references to other sections of the code were corrected, there were some additional references she asked be put in related to case laws and findings on sexually oriented businesses, and that was the vast bulk of what her comments were related to. He said she did have two issues: one was related to political signage which was a misinterpretation of language we had put in the code and has since been corrected; the other major issue she wanted council to consider was signage in the right of way. He said currently council allows signage within the right of way outside of city-owned signs based on council approval; the Law Director’s recommendation is that in this code you only allow city approved signs in the public right of way. He said she has asked that change be incorporated into the code however that is an item for you to discuss and you are not required to adhere to her recommendation if you choose to do something else. He said the other item that is subjective in nature only to style was the item of hobby farming or gentlemen’s farming which we told you we would bring back following the final comments from the Law Director. He said we prepared some documentation for you to review and it was included in your packet.

Mayor Flaute said we will start off with signs in the right of way. Ms. Campbell asked which signs are allowed. Mr. Chodkowski said the Law Director has recommended that only signs owned by the city or directional signs related to private business such as this drive way in or this drive way out; that those types of signs be the only signs permitted within the public right of way. He said currently signs that council approves for the St. Helen’s Festival or RABA or Soccer; all of those would be excluded in the future based on this code and the Law Director’s recommendation. He said that does not preclude council from setting other standards or conditions if you should so choose to allow non-city-owned signs within the right of way.

Mr. Fullenkamp asked what the basis for her opinion was. Mr. Chodkowski said the basis for her opinion as he understood from their conversations is that there is the first amendment right of free speech which is what signage has ultimately been considered by the courts. He said in essence, by allowing signage within the right of way upon request, you have to seriously consider all requests. He said while to date, all requests have been of a community nature in a supportive way, free speech can extend well beyond that. He said because there are no reasonable guidelines to regulate free speech as it relates to signage you have to take into account that if council were approached by religious institutions or other organizations that might not have such a beneficial community message to place signs in the right of way, council will be placed in a precarious position on how it addresses those. He said he would point recently to the court case in opposition to Fairborn’s Sweet Corn Festival; there was a church from Kentucky that came to spread the word and they were asked to leave the park. He said Fairborn argued they didn’t have a permit and they didn’t have the right to be there. He said the court ruled it is a public park and they had the right to be there as well as the right to say what they want to say because that is protected by the first amendment. He said it was a person who was carrying a sandwich board sign advertising that church’s message. He said it wasn’t so much they were disrupting the event by shouting with a bullhorn, they were just simply walking around with the sandwich board signs. Mr. Fullenkamp asked what the options were for our community groups if we were to adopt this language. Mr. Chodkowski said ultimately, what they would have to do if they wanted to post that signage is approach private property owners and seek consent to place those signs on private property.

Deputy Mayor Denning said Huber Heights has had a section in their sign language since 1992 which is specific and allows community groups and churches to put up signs in the right of way and council doesn’t have to approve it every time; they come in and get a permit so the city knows the signs will be there. He said there is a process that is approved by staff and there is no cost for the permits. He said he is advocating that; if they wanted signs for example for the end of March, right now they would have to get everything together before the council meeting on March 15th. He said a lot of people don’t have that type of scheduling and it would help with scheduling conflicts if we put some specific language in our code to allow community groups to put their signs up and it holds it to the community groups. He said it will probably leave us open a little bit legally but he didn’t think it would be overly so.

Mr. Fullenkamp said so if we set that standard to go by, what if an alternate group comes in to request signs. Deputy Mayor Denning said then we take it a case at a time. Mr. Fullenkamp said freedom of speech is very…..Deputy Mayor Denning said he knows; the answer is we cut out all signs and basically we are covered but how many groups and organizations are we going to upset when we do that. He said it’s not very easy to get those signs put up on private property and most places where you need the signs, you need them out in the right of way where everyone can see because the whole purpose is to advertise those things that happen on a very short term situation. He said he would suggest everyone read Huber Heights’ code; he likes the way they did it but it can be adjusted for us.

Ms. Campbell said it’s like Mr. Chodkowski says; if you allow one, you have to allow them all. Mayor Flaute said that’s partially true but in the Huber Heights’ code it states “community groups only” and maybe there needs to be a definition of what a community group is. He said we’ve been doing this ever since we’ve been a city, allowing community groups to put signs out and we’ve never really had a problem. He said he can’t say there aren’t going to but he agrees with Deputy Mayor Denning, if we can just put in there that only community groups are allowed and have some kind of definition for community groups, he didn’t see the harm in doing that.

Mr. Smith asked if we were going to put a time limit on the signs. Deputy Mayor Denning said there is a time limit; it says for community festivals and events, you can’t put signs up more than a week or two before the start of the festival or whatever it is and the signs have to be down within a week of the end of the event. He said instead of having to come before this body to get a resolution approving the signs, it would be part of our code that they are automatically approved and staff signs off on the permit. Mr. Smith asked when council would have the option to say no to signs on particular corners if they obstructed lines of site. Deputy Mayor Denning said he thought safety was listed as one of the conditions. Mayor Flaute said the code would say the sign has to be put in safely no matter where it is; we haven’t had a problem in the past and all the community groups have been very reasonable about it. He said we love to promote our community and when things are happening in Riverside, we want people to know about it.

Mr. Smith said if we are going to relax our feelings on signs, we need to enforce how big those can be. He said we have a sign limitation on size in our code but sometimes we don’t adhere to that. Mr. Fullenkamp asked specifically in the right of way or in people’s yards. Mr. Smith said for example, the signs for the schools, those are four feet by eight feet and those are too big based on our code. Mr. Chodkowski said based on our code, the sign limitation in non-residential districts for those types of signs is 32 square feet and the courts in the State of Ohio have repeatedly ruled that a 32 square foot sign in non-residential districts is appropriate in size for those types of messages. He said the courts have also ruled that within residential neighborhoods, 12 square feet is an appropriate size. He said they have also consistently ruled that use of those signs without limit is permissible, so if I want to put 100 signs in my yard, as long as they are no more than 12 square feet each, he can put 100 signs in his yard. Mr. Smith said we have a sign on Spinning Road that is 4’ x 8’. Mr. Chodkowski said correct; that issue has been brought to our attention and we have informed the home owner of their violation as well as compliance times.

Deputy Mayor Denning said the answer is, if they tell you your sign is too big on the 29th of February and the election is the 6th of March, you have 30 days to take the sign down.

Mayor Flaute said his personal feeling is we should continue to do this; we are a community and we need to push the things that are happening in our community. He said we need to stay with what we are doing now or do as Deputy Mayor Denning suggested similar to Huber Heights’. Mr. Chodkowski said he can draft legislation and the Law Director will determine whether or not it is legally sufficient but the advice then will be the same advice that you have received now; that you are exposing the city to liability issues and that you are preselecting who is given the right to free speech within the public right of way and who is not. Mr. Fullenkamp said that was going to be his point; how do we stop political speech in the right of way if we give community speech in the right of way. Deputy Mayor Denning said so far we’ve been doing it all along. Mr. Chodkowski said you’ve also been previously provided this advice by the Law Director as well, so the issue is not being ignored and the issue is not being avoided but again we provide the advice and whether or not you choose to follow…..Deputy Mayor Denning said right; and we make a decision that in our particular community, we think we need to be a community.

Mr. Smith asked if we can limit the number of signs put out and can we ask for the locations they are going to put them. Deputy Mayor Denning said we do that now; everyone needs to read Huber’s code.

Mr. Curp said he thought the issue with Huber is that if you go through Huber during election season you’ll see campaign signs out in the right of way. He said Huber doesn’t enforce the part of the code that says only community groups can have signs in the right of way. He said that’s the situation. He said as he listens to the City Manager’s comments forwarded from the Law Director, what she’s saying is that you either have to allow everybody or allow nobody. He said we can continue to do what the city has been doing but that puts the onus of the correct enforcement of the law on the individual as opposed to the city and he didn’t think that was the way we should be operating. He said he felt the onus for correct application of the law should be with the city and not with the individuals and if the constitution or if the courts say that political speech can’t be regulated like that, then we should honor what the courts and the constitution say. He said we shouldn’t put the onus on individuals to go to court to force us to do what is constitutionally correct.

Deputy Mayor Denning asked if he was saying we should allow everybody to put any sign up. Mr. Curp said yes because we used to do that; a number of years ago we were trying to deal with some of the adult entertainment operations in the city and one of the organizations that came to their defense was a church. He said the church’s position was as soon as you start putting constraints on one organization, then other organizations, such as churches, are subject to being constrained and not having free religious speech and free religious gatherings as provided for in the constitution. He said they weren’t partnering with the adult entertainment operations, they just came forward to say when you start putting these kinds of constraints, then we as churches fear the same kinds of constraints we might become subjected to.

Mr. Chodkowski said as a matter of practicality, he would like to point out that we have made serious and significant efforts at council’s request to approve the community’s appearance and we also have maintenance needs that are required within the public right of way. He said both the appearance of the city and our ability to effectively and efficiently perform maintenance in the right of way would be affected in the event you carte blanche allowed signs within the right of way. Mayor Flaute said that’s so true; there are wires from the signs as well as the signs left in the right of way. He said drive through Beavercreek right now – is that what we want for our city? Ms. Campbell said especially the wires, those affect our equipment. Mayor Flaute said and those flatten our tires; he didn’t think going back to everything in the right of way is a good idea.

Mr. Curp said he thought if you apply that standard to all signs, then you would be okay with the courts and the constitution. Mayor Flaute asked what standard is that. Mr. Curp said you can’t have anything in the right of way that impedes the maintenance of the right of way in the areas we maintain. He said that’s the standard you are applying to the political signs and another thing we need to take into consideration is that we don’t own all of the rights of way. Mayor Flaute said they are the right of ways. Mr. Curp said they are rights of way we have access to in an easement type of situation but we don’t own the property underneath all those rights of way; for example, Airway Road from Woodman to the Greene County line is owned by the Department of Defense; Montgomery County acquired an easement years ago in order to put a road there. He said the question is, do you have a right to tell someone they can’t put a sign there; the Defense Department might have that right but he’s not sure we do. Mayor Flaute said we take care of the right of way there; not the creek but all the safety factors, the mowing, and hedges and we don’t get permission to do that. Mr. Fullenkamp said it seems like the situation, one side or the other is either say no in all situations or say okay.

Mr. Curp said look at Oakwood, there are no signs in the right of way; if you want to put out a yard sale sign, you put it your yard and your yard only and that’s it. He said there are no signs along Far Hills, no signs along Shroyer, no signs on the school properties, no signs in the right of way, and they seem to do just fine.

Mr. Chodkowski said an item brought out in the course of discussion is community groups; every one of them has talked about their affect and impact in the community so he would be hard pressed to believe that there are not willing participants in these organizations who are willing to put these signs on their private property. He said you’ve heard testimony in previous meetings from Mad River Pee Wee Football, the Indians, and the Parks and Recreation Commission has heard from the Soccer Association and the Baseball Association about how those organizations continue to grow their membership. He said to the extent you want a community group to have a positive impact and a positive reputation in the community, to do so, requires you to interact with the community. He said to just simply place signs within the public right of way as an expeditious means to advertise your event doesn’t accomplish that.

Mayor Flaute said it still accomplishes the fact that people can plan, know when it is, and look forward to an event. He said maybe you will get that from signs in some folks’ yards but when it’s out in the right of way and someone from another city is driving through Riverside, they will be able to come to our community event. He said they might not be driving on our side streets anywhere near private property, so he didn’t think it was fair to say if there was enough advertising on private lawns, the event will do well. He didn’t think that was true either.

Deputy Mayor Denning asked what direction we were going here. Mayor Flaute said he thought they needed a motion. Deputy Mayor Denning said the two options he would prefer are – a) we look at Huber’s; or b) we stay the way we are. Mayor Flaute said he thinks we should stay the way we are. Ms. Campbell said she agreed with Mr. Fullenkamp. Mr. Fullenkamp said he didn’t see much difference in what Huber Heights is doing other than it’s out of council’s hands. Deputy Mayor Denning said right; the biggest difference is it doesn’t have to come to a resolution every time. He said if an organization comes to the last minute and hasn’t scheduled properly to get it to council, you would still be legally okay to get signs up in time. Mr. Fullenkamp said he thought they were very similar. Mr. Curp said it is similar in the way operationally it’s in the code; but it’s dissimilar in the way they enforce it because they let political signs stay up. Deputy Mayor Denning said the way they enforce it vs. the way we enforce it could be two different things. Mr. Fullenkamp said what concerns him is the proliferation of political signs. Mr. Curp said they could be religious signs too which you can’t discriminate against free speech whether it political, religious, or if Larry Flint wants to put up signs in the right of way; he’s going to say you let all the community groups put up signs so therefore you can’t discriminate against me because of the content of my signs.

Mr. Fullenkamp asked what the city would do if a federal politician started putting up signs in the right of way. Mr. Chodkowski said we would continue to enforce the rules of the ordinance as they are written, so in this instance, assuming that the code language were to remain the same, we would continue to do what we have always done. He said the decision would ultimately be council’s decision if we were challenged on that, how it would be mediated.

Mr. Schock said he would just like to continue what we’ve been doing and go on from there. He said it’s more defined; so far, we’ve never had any issues and he didn’t think Larry Flint is coming here to be part of the community. He said he would rather tempt fate just to keep the right of ways clean; we do regulate the community advertisement by how many days it’s there and how soon it has to be taken up. He said the resolution also spells out where the signs will be located during the period of time and by bringing the resolution forward, it is recorded in the minutes, so anyone that reads the minutes sees it too – a little extra advertising for the community.

Mr. Smith said he was comfortable leaving it the way it is.

A motion was made by Mr. Schock to keep the code the same in regards to signs in the right of way. Deputy Mayor Denning seconded the motion.

Mr. Curp asked if the motion was to keep the existing code or keep what is in the proposed code rewrite. Mr. Schock said the current code, not the proposed.

With no further discussion, a roll call vote was as follows: Mr. Schock, yes; Deputy Mayor Denning, yes; Mr. Curp, no; Mr. Fullenkamp, no; Mr. Smith, yes; Ms. Campbell, no; and Mayor Flaute, yes. **Motion passed.**

Deputy Mayor Denning said he wanted to bring something else up regarding signs because of the issue of residential vs. commercial; he would like to see the sign size standardized so it is the same for residential and commercial. He said to him it would be easier to enforce. Mr. Smith said well you would be driving 50 MPH on Woodman and it’s much easier to see a 4’ x 8’ than a 3’ x 4’. Deputy Mayor Denning said he understood; all he was asking is to make it a standard size to make it the same. Mr. Fullenkamp asked the City Manager if he made the point before that the courts had ruled on the sizes. Mr. Chodkowski said the courts have ruled that 32 square feet is appropriate for high traffic areas and that 12 square feet is appropriate for residential areas.

Mayor Flaute said we will move on to agricultural uses and the summation of hobby farms/non-traditional agricultural uses in the city of Riverside. He said there is an agricultural district in Huber Heights, in Fairborn, and in Dayton. He asked if anyone had any comments on hobby farms. He said he didn’t think Huber Heights was a bad way of doing it; one acre or more even if it’s in a residential area. He said he thought that might be something we want to consider. Deputy Mayor Denning said he agreed.

An audience member asked if they were talking horses on one acre. Mr. Chodkowski said yes; he distributed aerial views of Riverside, one showing the 1 acre lots and one showing the 1.5 acre lots. Mayor Flaute said the one in our packet shows 2 acre lots. Mr. Chodkowski said correct; our recommendation was 2 acres or more provided they are non-commercial, the accessory structure standards don’t vary from the standards that currently exist, and that the agricultural uses out side of vegetation be limited to specific types of animals. He said that is the common theme we pulled from ordinances in our surrounding communities. He said we have 301 one acre lots as opposed to the 141 two acre lots. He said for one acre lots south of Airway Road the agricultural uses might not necessarily blend within those neighborhoods as well as with other standards.

Mr. Smith asked what kinds of animals are we talking about. Mr. Chodkowski said horses, donkeys, mules, ponies, cattle, swine, sheep, goats, geese, turkeys, guinea fowl, peacocks, chickens, burros, llamas, alpacas, ostriches, and emus. Deputy Mayor Denning said roosters are chickens. Mr. Smith said the roosters are what make the noise. Deputy Mayor Denning said if you are worried about noise then you shouldn’t have guinea fowl or peacocks on here but it’s really how people take care of the animals. Mr. Chodkowski said we can add to or subtract from the list based on council’s desire.

Ms. Campbell said isn’t chicken waste poisonous. Mr. Chodkowski said he didn’t have an answer to that question.

Mr. Fullenkamp asked what the benefit to the city is in allowing hobby farming. Mr. Chodkowski said it does provide a use that currently does not exist within the city and it provides a use in a similar capacity as our surrounding communities. He said he doesn’t have an answer as to whether it provides a direct positive or negative impact economically or operationally, but he would say this type use is like any other type of use we currently regulate – there are those who abide by the laws and those who do not. Mr. Fullenkamp asked what kind of mechanisms would be put in place to ensure the animals are being taken care of properly; he didn’t want to see this become a neighbor against neighbor type of thing. Mr. Chodkowski said our recommendation will be that in the event council were to allow an authorized gentle farming that it be a conditional use approved by the Board of Zoning Appeals and once certain requirements are met, a person can go before that board for final conditions since every property is different and unique. He said while there are generic requirements that will need to be met, the BZA can look at each individual case and you would have neighbor input to determine whether or not the use is appropriate and how best that use can be located on the property. He said from an enforcement perspective, we would not actively inspect these types of uses if they existed; we would respond to concerns that were brought to our attention through our regular code enforcement activities or through citizen concerns/complaints.

Mayor Flaute said so the BZA would have the ability to grant this but the rules wouldn’t be so stiff that someone couldn’t do this. Mr. Chodkowski said the BZA would look at items such as minimum size requirements, minimum set back requirements, but they also may condition the use on the caveat that an accessory building be located in an area of the lot that is least intrusive to neighbors. Mayor Flaute said they would have the power to say yes or no. Mr. Chodkowski said there are criteria for a conditional use just like there are criteria for a variance, so they would consider each condition and if it was met or not met and they could add other reasonable components.

Ms. Campbell said we had a lady in here before that was discussing chickens or whatever and she stated that this does attract skunks. She said we’ve had complaints about skunks before so it could get even worse if we have other animals like that.

Mr. Curp said as a person who a couple years ago, came back from a trip and found a chicken coop in his neighbor’s yard he can tell you how it feels to have chickens in a residential neighborhood. He said he would suggest that regardless of which community’s standards we use and if we are going to make it a conditional use situation where it goes before the BZA, then the BZA should be provided some standards from council as to what criteria we think are appropriate. He said some of the literature we received from staff has things like a 25 foot set back and he thinks those are things council should create as guidelines for the BZA to use and for the property owner to be aware of and work with. He said he would suggest 25 feet from a property line and 200 feet from a residential dwelling.

Mr. Curp said chickens are a source of histoplasmosis. He said histoplasmosis attacks the nervous system, attacks the eyes and can cause loss of vision, and can cause death as former City of Dayton Mayor Hall could attest to if he was alive today. He said Mayor Hall died from the affects of histoplasmosis because he lived in a penthouse in downtown Dayton which had a lot of pigeons and pigeon feces. He said once the feces dries and becomes airborne it is a source of histoplasmosis. He said he’s not really interested in having that stuff close to his residential property and he’s not sure a lot of other people whose major investment is their residence, regardless of what the acreage is, are interested in having that type of environment to live in. He said he thinks they should set some standards and he didn’t think the 25 feet and 200 feet were excessive. Mayor Flaute said if we set a standard of 200 feet, how big of a lot would you need. Mr. Curp said he didn’t know; if you have an acre, he’s sure you could find 200 feet from your house and your neighbor’s house.

Mr. Schock said it all depends on how the acre is laid out which is why he was pushing 1.2 acres. He said he lives by 1 acre lots but the lots are really long; if you put it 200 feet from your house it might not be 200 feet from another person’s house. Deputy Mayor Denning said that would kind of keep you from having chickens but it doesn’t keep you from maybe doing bees or something else if you have enough property.

Mr. Curp said no matter what standard you set it is going to keep somebody from having chickens, whether it’s 200 feet or 300 feet. Deputy Mayor Denning said he didn’t think there were that many people that would want to have those things and have a large enough lot to do it.

Ms. Campbell asked if they were going to be allowed to build a chicken house or a barn. Mayor Flaute said that’s the structure thing which is next in the packet; we would have to set the same kind of guidelines for the structure. Mr. Curp said the guidelines he suggested were for the structures; no closer than 25 feet to a property line and no closer than 200 feet to a residential dwelling whether it’s a chicken coop or a pole barn for a horse or other structure.

Mr. Smith said just to back up what Mr. Curp stated about the disease caused by chickens and other birds, he bought a property and pigeons got in there. He said the property was just littered with feces and two guys approached him offering to clean it all out. He said they probably got nine bags and both guys got deathly ill. He said they didn’t have any masks on and they got real sick.

Deputy Mayor Denning said he raises pigeons to do white “dove” releases at weddings. He said as long as people do what they are supposed to do and keep things cleaned up, it’s not a problem which is what the code says – you have to keep things in a healthy condition. He said if we get a complaint, we go out there, and there’s three inches of feces, then they would have to get it cleaned up. Mr. Smith said we are not going to find that out until after the fact. Mayor Flaute said there are millions of chicken farmers in the United States and how many are fined because of the chicken manure – that’s just bogus. Deputy Mayor Denning said we are talking about domesticated animals and people are going to take care of them; it’s what they want to do or it’s a hobby and he didn’t think we would see the issues being discussed right now. Mr. Smith said that’s true but you are always going to have your non-conforming people like Mr. Curp mentioned; he came home from vacation and his neighbor had a chicken coop. He said the man has moved on; he still lives there but the chicken coop is gone and now he’s running a logging company out of the front yard.

Mayor Flaute said that’s something our zoning folks need to be looking at. Mr. Curp said we need to take a look at everybody’s neighborhood because that’s what we are here to do. Mayor Flaute said right; but to say we are all going to die because of chicken feces. Mr. Curp said he didn’t say that. Deputy Mayor Denning said all he stated was that we need to set up standards to keep it to a minimum. Mayor Flaute said he will agree with that and he thinks the standard of 200 feet is proper; he doesn’t have a problem with that.

Mr. Fullenkamp said the other issue he has is we are spending a lot of time talking about less than 1.5% of our residents for 2 acres and above. He said he works for all the residents but he has not seen any strong opinions from people saying they want to be able to do this; no one has come to him to say they wished they could raise chickens or bees or anything. He said he can understand the desire to allow people to have a little more freedom on how they can use their property but his concern is how it affects their neighbors and the neighborhoods and he’s not certain how it will turn out for the majority of the people to have these types of hobby farms. Mayor Flaute said it’s being done in cities all over the United States and younger people especially are getting more organically minded; they are thinking more about this than our generation has. Mr. Fullenkamp said he understood that but what they are doing is essentially excluding 98.5% of the people from doing these types of activities because of their lot sizes. Deputy Mayor Denning said so we either exclude 100% or allow 2.5% to do it. Mr. Fullenkamp said it depends on what lot size you pick; his preference would be 2 acres and above.

Mr. Schock said that really narrows it down; he would prefer 1.2 acres. Mayor Flaute asked why 1.2 acres. Mr. Schock said it doesn’t eliminate all large lots, just the really narrow ones. Mayor Flaute said he would go with 2 acres and the provisions we talked about. Deputy Mayor Denning said 1.2 or 1.5 acres is better than 2 acres. Mr. Curp said he liked 2 acres.

Mr. Smith said you can have two horses per acre. An audience member said it is one horse per 2 acres. Ms. Campbell agreed. Mr. Smith said he got it backwards; they need room to graze. Ms. Campbell said right, her daughter has horses. Deputy Mayor Denning said there are lots in Huber Heights with 4 and 5 horses on 5 acres, and their house is taking up 3 acres of that and the horses are just fine. He said he didn’t know where that standard came from; it really depends on how well the people take care of their animals and their property.

Ms. Campbell asked if people would have to have a permit and if we would know where the animals are. Mr. Chodkowski said we will know where the animals are because people will have to get a conditional use permit which is issued by the BZA. Ms. Campbell said if we did okay this for a couple acres, put rules behind it, and all that; what about a regular residential person bringing in one of those other animals to take care of. Mr. Chodkowski said these conditions would exclude a great number of folks who live within the city on traditional platted property from having fowl or a pig or sheep, etc.

Mr. Schock said first of all we should knock out the lot size.

Mr. Smith asked Mr. Murray how big the property in Seville is where the old mansion was. Mr. Murray said about 1 acre. Mr. Smith said he was just trying to get a size in mind. Mr. Murray said it would be excluded because it’s in a plat. Mr. Chodkowski said it would not be excluded because the provision is specific to non-commercial lots above a certain size.

Mr. Murray said he would say if it’s in a plat then no animals. Mr. Curp said that’s what the existing zoning code says because right now it is limited to RE, Residential Estate zoning. Mr. Murray said his theory on this is we have the southern part of the community which is very platted and the old township which is not. He said if he moved to a half acre lot, he would expect that he could use his property for something other than cutting the grass – some apple trees, a couple chickens, - a half acre is huge. He said once you get out of the plats everything in our community is rural; there are horses up on Union Schoolhouse. He said he would separate it something more along the lines of not by lot size but as is it platted and do this in districts. He said that’s his 2 cents worth and he thinks horse communities have a higher income than non-horse communities.

Ms. Campbell asked if there was a limit on how many animals you can have. Mr. Murray said we can’t find that. Mr. Chodkowski said there are general standards provided by the Humane Society and through the State of Ohio Corp of Commerce, but there is no hard fast rule. He said you would have a sliding scale of conditional uses; for example, you could have a pig or a goat or a couple chickens at 1.5 acres but you couldn’t have a horse until you get to 2 acres. Mayor Flaute said what’s wrong with that. Mr. Chodkowski said the issue is you have a regulatory issue; we have to maintenance this and we are the ones who have to go in and do this work. He said if that’s what it is you want us to do, that’s okay, but keep in mind the more cumbersome you make this issue, the more time it is going to take. He said and the issue will continue to grow. Ms. Campbell said have you ever driven through a town on vacation where they have cows – it smells.

Mr. Curp said going back to a comment that was made, not every city does this; cities that do this either require a certain lot size if it’s going to be in a residential area or they are restricted to an agricultural zoning area. Mayor Flaute said that’s what we are trying to do here; we’re not trying to make it for everybody, we are trying to put some limitations on it.

Mr. Smith said his definition of a gentleman’s farm would be 5 acres. He said he could be wrong but in the real estate market, that’s what we use.

A motion was made by Mr. Schock to set a minimum lot size of 1.5 acres for hobby farming. Deputy Mayor Denning seconded the motion. A roll call vote was as follows: Mr. Schock, yes; Deputy Mayor Denning, yes; Ms. Campbell, no; Mr. Curp, no; Mr. Fullenkamp, no; Mr. Smith, no; and Mayor Flaute, yes. **Motion failed.**

A motion was made by Mr. Smith to set a minimum lot size of 2 acres for hobby farming. Mayor Flaute seconded the motion.

Deputy Mayor Denning asked if the lot would have to be exactly 2 acres or could it be 1.927 or something like that. Mr. Schock said we would be voting on exactly 2 acres.

With no further discussion, a roll call vote was as follows: Mr. Smith, yes; Mayor Flaute, yes; Ms. Campbell, no; Mr. Curp, yes; Deputy Mayor Denning, no; Mr. Fullenkamp, yes; and Mr. Schock, no. **Motion passed.**

Mayor Flaute said moving on to accessory structures. Mr. Chodkowski said what we are advocating is there are already accessory structure standards that exist elsewhere in the code; all we are saying is that if you make an application for hobby farming, there is no additional accessory structure square footage allotted, you have to work within the same footprint as everyone else.

Mr. Schock said he thought that should be changed. He said that’s too small and you are going to need a lot more room since we went to 2 acres. He said if you have 2 or 3 horses, you will need a lot bigger footprint for your pole barn to house those horses. Mayor Flaute said he didn’t know if that was true or not. Mr. Schock said we had rodeo horses when he was a kid on an acre lot.

Mr. Curp said the animal industry and the veterinarian organizations would have recommended standards; let the applicant bring those standards to the BZA to argue that they need to have our standards lessened if they want to have more large animals. Mr. Chodkowski said they would have the right to apply for a variance just like anyone else but keep in mind that the principal use for these properties is still residential. He said if you increase the square footage of accessory structures beyond what is currently proposed within the code, what you are creating is a situation where the total square footage of the accessory structures is now greater than the principle permitted use. He said you would create potential that the property’s main use would be something other than residential in purpose. Mr. Schock said that’s not really true; you are assuming that and throwing out a scare tactic. He said we have a piece of property on Harshman that has a 1.2 acre lot with a detached accessory structure that is 2,660 square feet. Mr. Chodkowski said they were required to come and get a variance before the BZA in order for them to keep that structure. He said he wasn’t arguing their ability to have it or their ability to garner additional square feet. Mr. Schock said he’s not running a garage out of it which is what you are trying to point to. Mr. Chodkowski said he is the current owner, so while he may be compliant to the code and exercising the fact that the principle use is still his residence; a future owner may not do that and the point of the matter is on that particular property, the storage space is 60% larger than the residential space. Mr. Schock said it’s laid out very nicely and there’s nothing junky about it.

Mayor Flaute said we have a barn in our neighborhood that was built during the Mad River days. He said the fellow was growing plants; built a really big structure and then he died suddenly. He said the whole property went into disarray and the barn is an eyesore. He said that lot is probably ¾ of an acre. Mr. Schock said that happens in all communities; you can’t govern so much and what might be bad looking to you might look nice to the next person. Mayor Flaute said that’s true but that is why he thinks we should stick with the guidelines we have now and if they want to come before the BZA and show that the veterinarian’s association says we should have a larger building then it can be talked about.

Mr. Curp asked if we were going to talk about setbacks. Mayor Flaute said we can. Mr. Curp said he proposed earlier 25 feet from the lot line and 200 feet from any dwelling. Mayor Flaute asked what the setbacks are now. Mr. Chodkowski said the recommended proposed standards is the structures should have set backs of 200 feet from any lot in a residential zoning district for any building used to house livestock and shall have 100 feet for any land use of grazing of livestock. He said related to the structures, we can draft specific language such as the language proposed by Mr. Curp and we can make similar comparisons so you are aware if we are within common practice related to that. Mr. Curp said 25 feet would be from any lot line because you could have a rear lot adjacent to a higher density residential plat. He said you could have a 4 acre lot at the back end of the two acres and you would still want to have 25 feet.

Mr. Smith said if you go 200 feet from any residential dwelling you are going to need at least 400 feet of road frontage if you have residential on both sides. Mayor Flaute said you could probably do 200 feet from a dwelling on ¾ of an acre. Mr. Smith said he guessed he was thinking from the side. Mr. Curp said if your neighbor is 30 feet from your house, you would have to be another 170 feet away on your property. Mayor Flaute asked if you could do that on a 2 acre lot. Mr. Chodkowski said it depends on the lot. Mr. Curp said not everyone is going to qualify. Deputy Mayor Denning added and that is okay.

Mr. Chodkowski reviewed his notes: 2 acres, no change in accessory structures size or number, proposed 25 foot set back from lot lines, 200 feet from any dwellings, and we will compare those to other standards. Deputy Mayor Denning said you might want to add 200 feet from the front lot line. Mr. Chodkowski said you can’t have an accessory structure without a principle structure and you can’t build any structure in you front yard. Mr. Denning said he just wanted to make sure if he had a deep lot and put his house in the back that a barn wouldn’t be in front of that house. Mr. Chodkowski said that permit would not be approved.

Mayor Flaute said we will move forward with beekeeping. He asked if that could be part of hobby farming. Mr. Chodkowski said yes. Deputy Mayor Denning said you can do that with a smaller lot than 2 acres. Mayor Flaute said Kettering has it on lots of 7,500 square feet.

Ms. Campbell said if the bees swarm, we are going to have problems. Mayor Flaute said in Kettering’s code it states that colonies must be requeened following swarming or aggressive behavior. He said a good beekeeper is not going to allow swarming and if there is swarming, they will be asked to requeen.

Mr. Schock asked if we had enough staff to regulate that. Ms. Campbell said no; that will be another tax levy. Mr. Schock said we don’t have enough staff now to handle the regulations we have but we do our best. He said he’s concerned about if we have enough staff to regulate beekeeping. Mayor Flaute said if we believe it’s important enough. Mr. Schock said don’t overburden our staff, that’s all he’s saying; they have enough to do.

Mayor Flaute asked if there was a code council liked; he thought Kettering’s code was very good; the bees do need a water supply, so he’s been told. Deputy Mayor Denning said if we listened closely to what the bee folks came in and told us, this will be a positive influence on everybody’s flowers, fruit, and vegetables and everything else they do in the community. He said we need to allow people to be able to do this if they choose to do it. He said this is not something to invest in lightly, it will cost up to $1,000 to get started. He said if someone does this, they will be doing it as a hobby. He said will there be issues like the old guy who passed away and the wife won’t know how to take care of the bees – maybe, but he didn’t think we should not allow people to do this just because something might happen. He said the bees most people use for honey are very mundane Italian bees and he didn’t think all our residents are going to run out and buy beehives.

Ms. Campbell said if you have honey, you are also going to have raccoons and skunks. Deputy Mayor Denning said it’s not our job to do their homework. Ms. Campbell said the lady that was out here to talk to us stated skunks will come because they love honey. She said she didn’t want to see somebody set traps and terrorize other animals because of this.

A motion was made by Mr. Schock to establish the same provisions for beekeeping as in the Kettering Code. Deputy Mayor Denning seconded the motion.

Mr. Fullenkamp said we are talking about a minimum of 7,500 square feet with 3 beehives and 1 additional hive for every 5,000 square feet over the 7,500. Deputy Mayor Denning said so it’s not going to be a small lot in order to be able to do this. Mr. Fullenkamp asked why 3 hives is acceptable vs. 1 or 2. He said why not keep it at 1 or 2 hives; this is kind of the equalizer for all we’ve done for people with large lots. He said he agreed with Deputy Mayor Denning on the value of bees and he does view it as an equalizer for the people in his neighborhood to be able to do something. Deputy Mayor Denning said another possibility would be 1 hive for every 5,000 square feet and that would allow a smaller lot to at least have 1 hive.

Mr. Smith said he likes the Dayton code for bees; it is more descriptive. Mr. Schock said that allows them on the roof but he will amend his motion if everybody agrees to the 7,500. Deputy Mayor Denning said Dayton’s is basically the same. Mr. Smith said it talks about the water supply and screening; it’s more specific. Mayor Flaute asked if we could change the first sentence to 5,000 square feet for 1 hive. Mr. Smith said there’s a reason why these other cities have 7,500 square feet. Mr. Curp said one has 10,000 square feet.

Mr. Fullenkamp said the motion is to use Kettering’s code. Deputy Mayor Denning said we can modify the motion; what would you prefer. Mr. Fullenkamp said even for the 7,500 square feet, he wouldn’t say 3 hives; he would say 1. Mr. Smith said he would be okay with 1. Deputy Mayor Denning said again it goes back to somebody else has done the homework. He said we have 2 cities with the exact same language of 7,500 square feet with 3 beehives and 1 additional hive for every 5,000 square feet over the 7,500. Mayor Flaute asked if they could amend the motion to 1 hive per every 5,000 square feet. Mr. Chodkowski said that’s an awful lot of bees. Mr. Schock said he would stick to what it says; there’s something we’re not seeing here. Mr. Fullenkamp said he would be comfortable with 7,500 square feet for 1 hive. Deputy Mayor Denning said he thinks he wants to leave it as is; he’s assuming other communities have done their homework and this is some kind of standard.

With no further discussion, a roll call vote was as follows: Mr. Schock, yes; Deputy Mayor Denning, yes; Ms. Campbell, no; Mr. Curp, no; Mr. Fullenkamp, no; Mr. Smith, no; and Mayor Flaute, yes. **Motion failed.**

A motion was made by Mr. Fullenkamp to establish provisions for beekeeping similar to the Kettering Code but amending the number of hives to one (1) beehive per every 7,500 square feet. Deputy Mayor Denning seconded the motion. A roll call vote was as follows: Mr. Fullenkamp, yes; Deputy Mayor Denning, yes; Ms. Campbell, no; Mr. Curp, no; Mr. Schock, yes; Mr. Smith, yes; and Mayor Flaute, yes. **Motion passed.**

**ITEM 7: RECESS:** The Council took a recess at 7:40 p.m.

**ITEM 8: RECONVENE:** The meeting was reconvened at 7:55 p.m.

**ITEM 9: PLEDGE OF ALLEGIANCE:** Councilman Steve Fullenkamp led all those in attendance in the pledge of allegiance.

**ITEM 10: MINUTES: Consider approval of the minutes of the February 15, 2012 special council meeting and the February 16, 2012 council meeting.** A motion was made by Deputy Mayor Denning to approve the minutes as written. Mr. Smith seconded the motion. Mr. Curp said he would be abstaining since he was not in attendance at those meetings. With no further discussion, six were in favor; one abstention – Mr. Curp. **Motion passed.**

**ITEM 11: PRESENTATIONS:**

a. Frank Cervone, MSA Awareness Month Proclamation

Mr. Frank Cervone said he appreciated the Mayor and Council letting him come here tonight to speak about MSA Awareness Month. He asked if it was okay for his wife Susan to pass out a flyer to the audience. Mayor Flaute said please do. Mr. Cervone said he was aware of the interest in time having served on the City of Fairborn council.

Mr. Cervone said his disease is called MSA, Multiple Systems Atrophy, and is a neurological disorder that shoots false signals through your body and shuts your systems down at times. He said as some of the council members and your city manager can tell you, I was 304 pounds back in 2008. He said that was the first time he collapsed and he went through two years of misdiagnosis; this disease is so rare that even the local hospitals are just now learning about it. He said when he collapsed; it started out with light pains in the back of the head, a little vision loss in his right eye, dizziness, and weakness in the legs. He said he went for two years with pain meds, Parkinson’s, low blood pressure, migraines, and so many misdiagnoses. He said his goal is to make everybody aware of this disease. He said Ohio is the leader now of making people aware of this disease with the help of your city and other local cities and Jarrod Martin, the State Rep in the 73rd District, who has made legislation for this disease; House Bill 184 for Multiple Systems Atrophy.

Mr. Cervone said this is a pretty rare disease and is devastating; those affected look healthy on the outside but the inside is where all the devastation attacks. He said it shuts his heart down at times and he has a pacemaker now. He said it also attacks your liver, your kidneys, your breathing, causes low blood pressure, and it attacks your memory. He said as you can tell he is having trouble at times speaking about the disease.

Mr. Cervone said our goal is to bring in the Barefoot Runners of Dayton and he introduced Doug. He said these people have been wonderful enough to help make others aware of this disease and they actually run barefoot. He said they are running on March 31 to raise awareness.

Mrs. Susan Cervone said MSA has three separate types: type MSAP in which patients have Parkinsonisms –like they have Parkinson’s but it’s not; type C which is Cerebral that attacks the fine motor skills and speech; and there is Autonomic which affects the heart, lungs, and blood pressure and is the type Frank has. She said at this time there is no treatment and no cure; he is terminal and we didn’t expect him to live through Christmas. She said every day we have with him is a blessing; Frank is only 49 years old and it is not particular about what age it picks. Mr. Cervone said it’s doesn’t run in families, they don’t know where it comes from at all. He said Susan covered it pretty much.

Mayor Flaute asked Mr. Cervone to introduce his family. Mr. Cervone introduced his wife, Susan, and his daughter, Angela. He said it’s the caregivers that help us get through this and he’s lucky to have a wonderful wife and wonderful daughters; they have been his rock helping him get through this. He said so has my past council, City of Fairborn, and the City of Riverside council and all the other cities that have been helping me out – you guys keep me going, you are my cure in allowing me to speak. He thanked everyone.

Doug of the Barefoot Runners said about 6 months ago we were doing a race and he couldn’t help but notice Frank – he has all the hair I ever wanted to have. He said Frank couldn’t help but notice me because I ran the race barefoot. He said there were 3 members of the Dayton Barefoot Runners at that time, now we have 29. He said people think we are nuts but it is healthy, we enjoy it, and the best thing is when he is running people will stop and ask him questions; being an introvert, it helps him talk. He said we got to talk to Frank and learn about MSA and we just decided we wanted to do something. He said we’ve organized a 5 mile race on March 31st in Fairborn. He distributed some registration forms and said whether you walk barefoot or in shoes or run barefoot or in shoes, we want to encourage you to come. He said it’s a very inexpensive race, if you register before the race its $20 and if you register at the race its $25. He said you are going to get a neat shirt that has this neat logo on the front for the Dayton Barefoot Runners. He said the shirt will also have our sponsors which at this point is Beckett Corporation. He said we wanted to do something for Frank and we wanted to do something for MSA; we are asking you as a council to declare March as MSA Awareness Month.

Mayor Flaute asked if there were any questions.

Mr. Curp said he knew Frank had a bucket list and he asked how he was doing with the list. Mr. Cervone said he’s doing pretty well actually; he has been to Italy, France, Spain, Turkey, and Greece, those were on his bucket list. He said he went to the Caverns with his daughter, he and Susan renewed their vows on Long Island Sound on the beach, and he got his flight simulator. He said everybody remembers Col. Spacey from the base; he was going to take me up in one of the jets and the doctor said he couldn’t because the pacemaker couldn’t handle the G-force. He said he was willing to try it but Col. Spacey wasn’t; instead he did the community war fighter. He said he remembered Bob Murray from the community war fighter; it was a great day but after that he ended up back in the hospital. He said he still wants to pan for gold; he is kind of a history nut and likes Wild Bill Hitchcock and Calamity Jane out there. He said he wants to see Mt. Rushmore and hopes to get out to LA. He said that’s his bucket list and he thanked Mr. Curp for asking.

Mayor Flaute presented Mr. Cervone with a proclamation declaring March as Multiple Systems Atrophy Awareness Month in the City of Riverside. Mr. Cervone thanked everyone.

**ITEM 12: 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.

**ITEM 13: CITY MANAGER’S REPORT:**

1. FYI Items
2. Council Request Sheets.
3. Code Rewrite Request Sheet.
4. Council Agenda Calendar.
5. Weekly City Manager’s Report.
6. Minutes of the February 23, 2012 Health & Safety Commission meeting.
7. Minutes of the February 21, 2012 Parks & Recreation Commission meeting.

Mr. Chodkowski said you have my report and he would be happy to answer any questions.

Mr. Smith asked if we could talk a little about the towing contract. Mayor Flaute said we can; Mr. Hollis Shifflett has asked to speak to council so we can wait for that or we can talk during the city manager’s report. Mr. Smith said he was just kind of wondering what the analogy was because it looked like Hollis Towing came in lower than the others but we picked Sandy’s Towing with a flat fee of $120. He said if you call someone to fix a flat, Hollis is $50 and Sandy’s is $120. He said for starting a car with a dead battery Hollis is at $45 and Sandy’s is $120. He said he wondered where the analogy was.

Chief Reiss said our decision was to award the bid to Sandy’s Towing Company; although Hollis and Sid’s initial rate was lower, there were additional ala carte costs. He said the proposals ultimately make the others higher than the flat rate that was proposed by Sandy’s Towing. He said no matter how many pieces of equipment or personnel Sandy’s brought out, with the exception of large commercial vehicles, the fee remained at $120. He said it was our opinion that was the best service for the third party people we service.

Mr. Smith said if you have a multi-car accident, 3 cars that are damaged and have to be towed; is the $120 going to be divided 3 ways with each person paying $40 plus the storage fee. Chief Reiss said no. Mr. Smith said each person would be charged $120. Chief Reiss said correct but for a particular one incident and the truck required multiple pieces of equipment to get a vehicle out from somewhere or right the vehicle, Sandy’s charges the flat rate of $120 whereas, the other bidder’s costs would be greater based on the cost of additional apparatus or personnel. Mr. Smith said for a vehicle in excess of 10,000 pounds, Hollis has a conditional fee of $175 and Sandy’s is at no additional charge. He said that requires a bigger wrecker to pick that up. Chief Reiss said that was one of the things we took into consideration was where we could provide the service at the least cost to the third party involved. He said we certainly don’t get any benefit from whichever towing company we use; we just wanted to ultimately make sure we got everybody involved the lowest cost we could if they need to call a wrecker service out. He said it was our opinion after going through the bids in their entirety, although Sandy’s initial rate was higher than the other two, they didn’t charge any cost for ancillary service beyond the flat rate. Mr. Smith said we have a month before this goes into affect and he would like to see something in writing that Sandy’s is actually only going to charge us $120 per call.

Chief Reiss said if there are 3 separate vehicles involved with 3 separate drivers, clearly each driver will be charged the $120. Mr. Smith said it says no additional charge. Chief Reiss said a single vehicle that requires multiple apparatus and personnel to complete the job doesn’t inflate the cost but if you have 3 separate vehicles owned by 3 separate people then each one of those people will be charged $120. Mr. Smith said it’s still one call if an officer calls in and says he needs 3 tow trucks. Chief Reiss said he understood what Mr. Smith is saying but 3 separate vehicles would be 3 charges of $120; now lets say it takes, for whatever reason, more than 3 wreckers to disassemble the mass of cars and flat beds are needed to take the 3 cars away, you are not going to be charged beyond the $120 flat rate per vehicle. Mr. Smith said he understands but why should our residents or people traveling through the city have to pay an additional $120 to have their car towed when Sandy’s is only charging $120 to come out regardless of the number of cars. Chief Reiss said he didn’t think any of the wrecker companies submitted their bids with a flat rate for multiple car accidents with multiple independent vehicles. He said that’s never come into his thinking. He said each independent party would pay the $120 flat rate regardless of the number of pieces of equipment and personnel required to tow them away.

Mr. Smith said that’s not what it says on the bid specs; it says for each additional truck with driver, Hollis has $95, Sid’s has $80, and Sandy’s has no additional charge. Mr. Chodkowski said to the benefit of the questions you are asking it would probably be beneficial if you actually had a copy of the full contract so you can see all of the language. Mr. Smith asked why that wasn’t included in the packet. Mr. Chodkowski said based on what you had asked for when we met to talk about this, it was not the information you asked be included with the manager’s report. He said you asked to have the bid tabulation report included which was provided. Mr. Smith said he did ask to be present during the bid opening too. Mr. Chodkowski said the bid was opened the morning of February 15th and we did not meet nor did you provide me direction on this issue until the night of February 15th. Mr. Smith said the contract with Sandy’s was dated February 13th. Mr. Chodkowski said if you read the email, each one of them filled in the information, except for Mr. Shifflett, on the template of the contract. He said Chief Reiss was out of town the day he assembled information for the packet, and I made the assumption because I had not participated at the bid process related to this issue because it fell under the guise of Chief Reiss’ department and he was entrusted to perform that function. He said he made the assumption that contract was entered into on the 13th and the email clearly explains that was my error. Mr. Smith said given all that information, he still didn’t see how this was fair and he will leave it at that.

Ms. Campbell said for everything that says no additional charge, are they equipped with the right equipment to handle this type of request; like the large trucks over 10,000 GVW. She asked if they had all the proper equipment to handle everything. Chief Reiss said yes.

Deputy Mayor Denning said in our community, what percentage of calls is going to require the additional stuff listed. He said isn’t 80% to 90% of our accidents going to be the passenger vehicle being hauled from a wreck or towed from a residence because its not licensed and things like that. He asked if that came into the thought process about overall, total cost of a contract. He said if 80% are going to be charged $95 or $100 as opposed to $120, to him that would be the better contract. He said he thought the number of accidents and things that are going to get towed need to be put in the formula because we don’t have that many trucking accidents where the additional equipment would be needed. He said to him the $95 for the average person and $15 per day if you tow my vehicle out of my driveway; he would prefer that vs. $120 plus $20 per day.

Deputy Mayor Denning said the other question he has about it is he went up on Valley Street, he didn’t see any Sandy’s towing trucks so he’s wondering if they even meet the criteria of being in the 3 to 4 mile radius or are they waiting to see if they get the contract before they actually put stuff up there. He said if that’s the case then they didn’t meet the criteria of the contract when they bid it. He said he is frustrated with that situation too and it’s actually going to be in Dayton so if they moved in its not like we are going to get tax dollars off of it. Chief Reiss said they are required to have a facility in place by April 1st that is compliant to the specification; if they do not it will invalidate the contract.

Chief Reiss said he has seen Mr. Shifflett’s operation and he’s seen Sid’s operation and he is aware of all the main offices and satellite office that Sandy’s Towing has. He said he did not go out personally to look at the site they have slated; it’s a leased property that is in place. He said they are required to have a facility that’s complaint with the bid specifications prior to April 1st; if they don’t it invalidates their proposal.

Deputy Mayor Denning asked if Chief Reiss agreed that most the accidents we have in the city are passenger vehicles. Chief Reiss said he doesn’t have data on that.

Mr. Schock said the one thing that struck an alarm with him when looking at the bids was Hollis and Sid’s had a full description of what everything costs and Sandy’s comes roaring in here with no charge. He asked how well Sandy’s performance is going to be, knowing this contract is not going to make that much more money for them. He said this is just his assumption but what if they look at a call in Riverside and think that won’t make me much money, let’s take care of Kettering first. Mr. Chodkowski said there are performance requirements included in the contract and in the event that would happen it would enable us to terminate the contract before the end of the 12 month period covered by the contract. Mr. Schock said didn’t you think that was unusual in your opinion. Mr. Chodkowski said no; my opinion based on that proposal was that Sandy’s felt that was the appropriate bid to win the package within the scope of how he wished to run his business, their profit is not our concern. Mr. Schock said where it says no additional charge, what is the base cost to come and unlock my car. Mr. Chodkowski said $120; but if you read the contract language, all of them have the right to charge the base rate in addition to. Mr. Schock said he doesn’t have the contract. Mr. Chodkowski said he would be more than happy to provide council with all of that but he was asked to provide the bid tabulation.

Mr. Chodkowski said if council would like to talk about this in more detail, he will put together a more comprehensive package that has all of the information in a separate packet if you are inclined to talk about this in greater detail at the next work session.

Mayor Flaute asked how much the same scenario Mr. Schock talked about would cost if done by Hollis. Mr. Chodkowski said in that instance, he would be able to charge the $95 plus $45, so now his rate would be $140 to come and unlock your car. Mayor Flaute said that would be vs. the $120 rate Sandy’s would charge.

With no further discussion regarding towing, Mayor Flaute said he noticed in the Health & Safety Commission minutes there is going to be a grand opening of the Bark Park either on April 14th or the 21st depending on the weather. Mr. Chodkowski said correct; initially Mr. Browne and several members of the commission received advice from a local veterinarian and they would like to have him come and speak at the grand opening and thank him for his guidance and advice. He said once that information is put together, they will assemble a flyer that will be distributed through local veterinarian offices and local pet supply stores. Mayor Flaute said it’s great to have a bark park; if you don’t know what it is, there’s maybe an acre fenced in and you just let your dogs run. He said there are very few dog fights because they are not on a leash, they are not allowed on a leash, and its just fun to watch your dog work with other dogs. He said this is an extremely cool thing we have for our city.

Mr. Schock said there are rules posted on the fence at the Bark Park and one of the rules is puzzling to him. He said its one owner, one dog even though there are even number days for dogs less than 20 lbs. and odd number days for dogs over 20 lbs. He asked why he was only allowed to bring one dog in at a time when his dogs are small. He said little dogs don’t take up much room and he could understand the rule for big dogs. Mr. Chodkowski said the issue isn’t the weight, the issue is the ability to control; even small dogs can fight and be aggressive. He said one person; one dog allows the person to be responsible only for his one dog and if it misbehaves it can be controlled in short order. He said if a person has to track down 2 or 3 or 4 dogs, that could create a problem for other users.

Mr. Schock said another item is the no smoking – it open space in a park. Mr. Chodkowski said that was a set of rules presented to us from the veterinarian that was advising. He said his understanding was that in addition to the general dissatisfaction that particular habit may cause to other people who do not have that habit, dogs can also be sensitive to those odors. Mr. Schock said we’re talking about open space and he would think it would be more to control a dog from eating a cigarette butt. Mr. Chodkowski said that very well could be; as far as the rules and the meaning behind the rules, Mr. Browne would be a more appropriate person to provide specifics. Mayor Flaute said he doesn’t see Mr. Browne tonight. Mr. Schock said there’s also no eating in the dog park or running in the dog park and generally you like to run with your dog.

Mr. Chodkowski said he believed the rules were in place because you have a community of dogs that might not necessarily have the same training or temperament. Mayor Flaute said this is probably something the Health & Safety Commission talked about at length and he suggested people talk to Edyth Ann Mitchell after the meeting or contact Mr. Browne.

Deputy Mayor Denning said regarding the street revamping; he did some homework on the recycling of asphalt and he would like the city manager’s input as well as a little explanation to the folks in the audience. He said he was very positive about what he saw on the internet and the only question he has is whether or not it lasts comparably to putting down brand new asphalt. Mr. Chodkowski said for those who aren’t familiar with reheat surfacing, it is a relatively new technology. He said typically what you do is a mill and fill where they grind off 2 to 6 inches of the existing asphalt then put down fresh asphalt. He said for this process they scrape up 2 to 3 inches, add emulsion - liquid tar glue, heat it back up to an appropriate temperature, then they lay it right back down in the exact same spot. He said it is touted as being 20% to 30% more cost effective than the traditional mill and fill and he can honestly say we are in the process in researching this technology for its pluses and minuses. Mr. Miller said from the vendor, we have requested sites where this has been done as well as references and we have not received that information back. He said we would like to thoroughly vet the vendors and make sure we have an opportunity to talk to the other cities as well as visit a site to make sure their claims are valid.

Ms. Campbell asked if that was like slurry seal. Mr. Chodkowski said not at all; it is basically taking old asphalt, putting fresh glue on it, and putting it back down. He said he did have a list of communities and he would make sure Mr. Miller got that. He said Ronyak Paving is the vendor we have talked to and there are a few additional vendors in the State of Ohio, most being north of Cleveland. He said Ronyak did come out and provide us an opinion that Harshman Road and Burkhardt Road would be very good streets for them to utilize this technology and they are going to provide us the specifications for those particular applications in their industry so we can include that as part of our bid documentations. He said based on that he is going to assume they will be a bidding company but they are providing generalized information so that all other companies within the region that have that capability will be able to bid. He said as far as heavy traffic areas, he has a lot of the same concerns Deputy Mayor Denning has and we have not had an opportunity to vet those out, however, as far as our residential streets and our need to begin a more thorough surfacing program, those are our lesser concerns but concerns nonetheless.

Deputy Mayor Denning said for the audience right now, you grind it off, haul it all away to a landfill or wherever it goes, and then they bring in new asphalt to lie down. He said this machine heats it up, grinds it off, puts it in a hopper, puts more tar and stuff with it, and then spits it out the back. He said positives he sees is we don’t have stuff going into our land fills and we don’t use more petroleum products, so just the ecology of it is a positive. He said the cost effectiveness is also a positive and the time our streets are down for repairs, especially with all the traffic on Harshman, would be less. He said if it lasts as long as asphalt, he thinks this is a very positive thing for us to consider. He said he thinks we need to lead the other cities around here and show them what we are doing. Mr. Chodkowski said an application on Harshman Road could be an ideal application based on what we know because the work we are doing is limited in scope; we need the Ohio Public Works Commission to consider it temporary so we can continue to seek grant dollars for what’s called a full depth repair which is the longer term permanent repairs. He said it does have an application purpose for us in this instance because we are specifically designing this overlay to last for a period of approximately 10 years and we need to meet all those OPWC requirements to keep it as a repair rather than a reconstruction. He said additionally he believed Ronyak is talking with Kettering and Moraine at this time so we are trying to pony this altogether so we can put together a package where we can all bid in a similar time frame to try to minimize transportation costs.

Mr. Fullenkamp asked Mr. Miller if, during this process, gilsonite could be added to the pavement to accomplish better stability. Mr. Miller said gilsonite can be added to any street but it is best used on a newer street. He said the gilsonite is a hardening material to lessen the tendency of pushing and shoving like we have at our intersections and stabilize the base of the blacktop that’s there. Mr. Fullenkamp said so the answer is yes; Mr. Miller said yes.

Mr. Schock said he is impressed with all the research these guys have done.

**ITEM 14: PUBLIC COMMENT ON AGENDA ITEMS:**  Mr. Larry Kopa of Marblehead Dr. said he just popped in on the earlier discussion on the beehives and he just wanted to go on record that if he gets stung by a bee or and insect, he is almost guaranteed a trip to the ER. He said he is very allergic and he might not be the only one like that in the City of Riverside. He said he just asks that council take that under consideration for what it’s worth. He said on the property where he lives over in Seville Estates, we are on ¼ acre lots so chances of his neighbor having a hive with 1 per 7,500 square feet, he’s not really worried about that. He said the second thing that came to mind is the city is working with a tight budget and his concern would be that if the hives come in, somebody is going to have to monitor it and somebody is going to have to enforce it, so then what will the cost to the residents be to accomplish that task. He said he has fruit trees in his back yard; they get pollinated and Mother Nature is doing a good job.

Mayor Flaute said we had beehive people here a couple months ago and they really enlightened us; all we are talking about are honeybees and they are not aggressive unless they are Africanized. He said you also have to have shrubbery or wall that goes up 6 to 8 feet so that when the bees come out they fly up and out. He said we are hoping citizens will have this as a hobby; we need the bees and for the last 5 or 6 years we haven’t seen any. He said the reason is bees only have a 2 mile radius, so when the City of Riverside determined we weren’t allowed to have bees anymore, they didn’t go to that 2 mile radius. Mr. Kopa said so we are inviting the bees back and that 7,500 square foot lot can be within 2 miles of my house. Mayor Flaute said they will pollinate your apple trees.

**ITEM 15: NEW BUSINESS**

# RESOLUTIONS

A motion was made by Deputy Mayor Denning to vote on Resolutions 12-R-1641, 12-R-1642, and 12-R-1643 as a package. Ms. Campbell seconded the motion. All were in favor; none were opposed. **Motion passed.**

* + 1. **Resolution No. 12-R-1641 setting forth appointment of Shaun Doerner to the Multimodal Transportation Commission for the remainder of the term ending February 18, 2014.**

**b. Resolution No. 12-R-1642 setting forth appointment of Karen M. Miller to the Health and Safety Commission for the reminder of the term ending August 2, 2012.**

**c. Resolution No. 12-R-1643 setting forth appointment of Stanley A. Leszczuk to the Property Maintenance Appeals Board for the remainder of the term ending February 14, 2014.**

A motion was made by Deputy Mayor Denning to adopt Resolution Nos. 12-R-1641, 12-R-1642, and 12-R-1643. Mr. Fullenkamp seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 16: PUBLIC COMMENT ON NON-AGENDA ITEMS:**  Mr. Hollis Shifflett owner of Hollis Towing said he appreciated the Council, Mayor, and Chief of Police for accepting his bid for the tow contract but he didn’t think the city did due diligence when they applied the contract. He said for example the bid asked us for specific prices for 17 services; how much for a basic tow, how much for storage, how much to unlock a vehicle, how much for a tire change – 17 basic services. He said he went one step further and broke down the winching per ¼ hour; $120 per hour or $30 per ¼ hour. He said Sid’s charges $80 and Sandy’s charges $120 flat rate. He said flat rate means every time Sandy’s comes out to do a service for you, it’s going to cost $120. He said if they come out and upright a car then tow it for you, that’s $240 plus $20 per day storage. He said if I come out and upright a car then tow it, I charge $95 plus $50 plus $15 per day storage. He said there is no way Sandy’s should have been a legitimate bidder on this contract; the contract asks for the specific cost to do that, it didn’t ask for a flat rate cost.

Mr. Shifflett said the city not only accepted one bid from Sandy’s, they accepted two bids. He said the second bid was that the flat rate would be $135 with a $25 kick back to the city which the city rejected, but he got to submit 2 bids and he and Sid’s did 1 bid. He said we gave the cost per item for everything that we do and Sandy’s is a $120 flat rate. He said if you’ve ever worked in a garage and it costs 3 hours flat rate time to fix a car but you fix it in 30 minutes, you get paid for 3 hours work.

Mr. Shifflett said the Chief sent a letter to tell us the flat rate provided by Sandy’s was the best rate for the City of Riverside residents. He said impossible. He said he charges less money for storage than either one of the companies, he charges less money per tow than either one of the companies, his business is an established business in the place it sets now for the last 10 years, and he has been in business for 34 years. He said Sandy’s has 100 tow trucks and there is no way he got 100 tow trucks doing services for people for free. He said Sandy’s doesn’t even have a location within 3 miles of the City of Riverside; he bid on this contract and said if I get the contract, I will rent a place to run my yard from. He said that is not a place of business if you are bidding on a contract on a contingency that if you get the contract, you are going to move to that place of business. He said Sandy’s has a contract to lease the place at the end of Valley Street in the City of Dayton and is about the same distance from there to the City of Riverside as his shop is to the City of Riverside.

Mr. Shifflett said he has asked everybody for the past 5 years to come to his facility and see what type of service I can provide for the City of Riverside and how I can represent you vs. Sid’s, the guy that is towing for you now. He said the Chief states that Sandy’s has no hidden costs and he doesn’t; its $120 flat rate period for anything he performs. He said it states no additional charge but he gets $120 to go jump start a car. He said its $120 to show up on the scene of an accident but if he winches a car off a pole, that’s another $120, and if he has to call for a flat bed to tow the car because it has two flat tiers on the same side, that’s another $120. He said now you have $360 for that tow plus $20 per day storage. Mayor Flaute asked what he would charge. Mr. Shifflett said $95 for the tow, $50 for the winching, and $15 per day storage.

Mr. Schock said back to the jump starting a car; to send your truck out would be $95 plus $45. Mr. Shifflett said no; that’s not the way that is written. He said they asked for specific services – how much it would cost to tow a car; it didn’t say how much would it cost for my truck to show up on the scene and then start a car. He said it asked how much we charged for towing. He said his calculations were perfectly clear and he even went one step further, so a person in Riverside wouldn’t pay $120 to get their car winched; if it takes him 15 minutes to pull a car up on the road, he charges the customer $30 vs. $120. He said he didn’t know how in anybody’s mind they could think a flat rate is in the best interest of Riverside and Sandy’s is not even located within 1 mile of the City of Riverside at the time of the bid. He said the bid didn’t ask for a flat rate service, it asked for specific prices for the services we perform.

Mr. Smith asked if Mr. Shifflett would explain to council the kind of security he has at his facility. Mr. Shifflett said he has over 60 closed circuit television camera that we can pull up on our cell phones at any time, any place. He said the shop is surrounded with infrared lasers; if someone cuts a hole in the fence and walks through, it trips a laser. He said the laser calls his pager, tells him what zone was broken, and if they move around the property there are 155 motion sensors so if they move from one building to another building, it stacks the numbers on the pager to tell him where they came from, where they went, and where they are so when he goes to the property, he doesn’t have to look all over. He said he has 8 acres enclosed in fence, 3 strands of barbed wire, and over 10,000 square feet of inside storage. He said he has 9 buildings on the property and his lot is completely handicap accessible from his front parking lot to his impound lot.

Mr. Schock asked the city manager if the bid specs asked for everything to be itemized. Mr. Chodkowski said correct. Mr. Schock said so what he’s just told us is, Mr. Shifflett bid a ¼ hour rate and he didn’t catch that. Mr. Chodkowski said the bid requirement was you bid per hour, not per ¼ hour or per ½ hour or ¾ hour; the contract required that you bid in the 1 hour increment. Mr. Schock said so if someone bids in the ¼ hour, you just ignore it because the contract said to bid per hour, right? Mr. Chodkowski said he would say that how that calculation came into factor is a question for Chief Reiss to answer. Chief Reiss said the flat rate is $120; it doesn’t matter how many pieces of apparatus. Mr. Schock said he is talking about the ¼ hour stuff. Mr. Chodkowski said that’s how he chose to report but the bid required everyone to bid in the hour increment. Mr. Shifflett said Sandy’s didn’t bid it; he bid a flat rate straight across the board with the exception of if he uses a big truck which is not flat rated, its $175. He said if you are going to bid a flat rate, how can he get $175 for a big truck and $120 for everything else and $50 for a dead run. Mr. Chodkowski said Sandy’s actual bid was zero dollars per hour on those items so he did bid it appropriately. Mr. Shifflett said zero dollars for what. Mr. Chodkowski said that section of the bid document, the bid was zero dollars per hour for those services. Mr. Shifflett said he flat rated it. Mr. Chodkowski said that is how we prepared the document but the actual bid he specifically put in was zero dollars per hour in the additional charge category located under subsection 5D of the contract. Mr. Shifflett said he would bet that if the city asked Sandy’s to put it in writing that they are not going to charge your residents to come out and jump start a car or unlock a car or winch a car or pick up a big truck or turn a car over – that they are not going to charge you a dollar to do that, he bet they wouldn’t give it to the city.

Mr. Schock said it is $120 to come out and jump start a car. Mr. Chodkowski said that it his understanding of what could be charged; he has the ability to charge that as well as does Sid’s. He said as indicated, if you want to have this discussion in greater detail he would be happy to prepare all the entire detailed documents and if Mr. Shifflett has a right to be before council to petition and explain, so does everyone else. He said it would only be fair for council to all have copies of the bid documents they submitted and for each one of those vendors to be here to discuss the particular issues and to answer all the questions. Mr. Schock said that’s exactly what we are going to do.

Mr. Schock asked if this bid has been awarded. Mr. Chodkowski said yes, the letter has gone out. He said if council wishes us to invalidate the contract; while it has been awarded, it does not take affect until April 1st. He said in the event who charges what rate at what time for what device for what service, then what we can do is simply invalidate all the bids and the contract will remain with Sid’s until such time as we can prepare an entire bid document that is updated and accurate to the satisfaction of all 3 bidders so that everyone understands we are comparing apples to apples to apples. He said we will just rebid the thing. Mr. Smith said he thought that’s what we ought to do.

Mr. Shifflett said he appreciated council’s time and thanked them.

Mr. Chodkowski said the decision is between council and the Law Director; this contract does not require council to approve its award and it is an administrative right vested to himself or his delegate to do so provided we delegate the purpose as reasonable and that the process is fair. He said that is a decision and interpretation you need to receive from the Law Director. Mayor Flaute said he would request that information from the Law Director and he thanked Mr. Shifflett.

Mr. Larry Kopa of Marblehead Drive said at the last meeting in the discussion about Lily Creek, he had another question to ask and he just forgot to do that. He said at the December 15th meeting and public hearing that was conducted at Spinning Hills, that presentation was well attended by a fair amount of residents and it was interesting to hear Montgomery County Soil & Water. He said it didn’t get off to an easy start because we wanted answers and they weren’t going to give them to us; there was a decision there that had been made. He said there were official minutes of that meeting and in that, none of the council members attended that meeting. He wanted to know how many council members read those detailed minutes. Mayor Flaute said we haven’t seen them but the project is dead for now. He said he guessed we could read the minutes but the project is not moving forward so what would be the value in us doing that. Mr. Kopa said the amount of effort and research that was done by a number of the residents who actually brought information to that meeting – there was discussion on maps and other facts and what he was really concerned about is, even though that part of the project may be dead, those facts….. Mayor Flaute said what we have done now is we have applied for a $60,000 grant from the USEPA to figure out what it is we can do to stop the erosion and the pollution that is happening there. He said we are not doing anything else with Lily Creek until we find if we are going to get that award or not. He said what ever you want to bring up, we aren’t doing anything else. Mr. Kopa said he thought what was in the minutes would be valuable to help you with that process. Mayor Flaute said when we get the award we will look at the minutes; there will be a citizens committee answering to the award. Mr. Chodkowski said he didn’t know if there is a specific citizens committee but there is an advisory committee that has several representatives and there are notations for citizens to be on that with other individuals.

Mr. Fullenkamp said he will look at anything if you will give him the information. Deputy Mayor Denning suggested Mr. Kopa email the web address so they can all look at the minutes.

Ms. Jan Pitzer of Wake Forest said something bothered her from the last city council meeting when Councilman Schock stated that we were doing such a great job at stopping Lily Creek. She asked where he got his information that we were doing such a great job. Mr. Schock said he got phone calls. Ms. Pitzer said you basically stated you couldn’t stop the process and she spoke to Soil & Water and the only way the process could have been stopped was by Riverside saying they wanted it stopped. Mayor Flaute said the citizens were in control. Ms. Pitzer asked if a new sub-district with Miami Conservancy District be created. Mr. Fullenkamp said he doesn’t know. Mayor Flaute said he didn’t think so. Mr. Smith asked why would they. Ms. Pitzer said they would need the jurisdiction over the creek like in 1982. Mr. Smith said we aren’t to that point yet. Ms. Pitzer said she was just asking would a new sub-district be created. Mr. Fullenkamp said we don’t know.

Ms. Pitzer said she is still questioning who drew the watershed boundary line but she got an answer. Mayor Flaute said we don’t really need that answer until we know if we are going to get the $60,000 or not; why would we need that answer. Ms. Pitzer said it was drawn by the city manager according to Jim Dillon at Soil and Water. Mr. Schock asked Mr. Chodkowski if he drew it. Mr. Chodkowski said they asked us based on the GIS data available from Montgomery County, from LJB, and from the USGS to define the watershed based on that information. He said it was not a formal definition; it was a draft so they could identify who would potentially be within the Lily Creek watershed. He said as the watershed is roughly 1,400 to 1,500 acres and the scope of work was specific to Lily Creek from the Greene County line to WPAFB, the question became if this was going to be an assessment project to then take that same set of data points and break it down to those properties whose surface water would drain to Lily Creek between the Greene County Line and WPAFB. He said we did create those maps at the request of Soil and Water and it was to assist them in identifying property owners who could potentially be subject to a special assessment district to fund those projects. Ms. Pitzer said she did take the city manager’s recommendation that the Montgomery County Planning Commission would have the documents she was looking for and they have told her the City of Riverside has them. She said she was referred to Dan Foley of the Montgomery County Commissioner’s and she has spoken with his assistant, Jim Vangrove, and he will get back with me.

Ms. Pitzer said getting away from Lily Creek, does Riverside have panhandling laws. Mayor Flaute said yes we do. Ms Pitzer said she was approached by 3 different people in the last week – one at Airway Shopping Center, one at Kroger on Spinning, and one at the Spin-Kemp Shopping Center. Mayor Flaute said please call the police when that happens, we’ve had panhandling laws since the 1990’s.

Ms. Pitzer said she wanted to thank the Riverside Police for showing up this past Wednesday; her 90 year old mother lives across the street from and she can see her home through her front door windows. She said after 8:00 p.m., it was dark; she looked over and saw 2 men standing on her mother’s front porch dressed in all black. She said she stepped out on her front porch and asked what they were doing and they said they were spreading the word of Jesus. She said she told them to move on. She said she got a phone call from her neighbor to the left who is home alone and asked who was knocking at her front door. She said she looked out and it was the same 2 men. She said she called the police and was not happy with Huber Heights’ dispatch who was telling her it wasn’t that late but it was after 8:00 p.m. in the winter and 2 men dressed in black knocking on people’s doors in today’s climate of home invasions and robberies, she didn’t think she had to explain herself. She thanked Chief Reiss and the Riverside Police because they did respond. Mayor Flaute asked if they were able to talk to the gentlemen. Ms. Pitzer said yes; they did stop them. She asked if we had laws regarding solicitation. Mayor Flaute said you aren’t allowed to do it. Mr. Chodkowski said we do have a solicitation law. Ms. Pitzer said she didn’t think she was out of line calling that in. Mayor Flaute said if you see something like that at noon on Sunday, call it in. Ms. Pitzer said she didn’t feel comfortable with solicitation after dark in the winter time all dressed in black. Mr. Chodkowski said the law prohibits people who carry merchandise with them and prohibits them to market that merchandise. Ms. Pitzer asked if spreading the word of Jesus was considered merchandise. Mr. Chodkowski said it would not be subject to this particular legislation; Englewood recently had a decision issued by the Ohio Supreme Court in relation to its regulations and he does have an interest to take their legislation on that issue and find a way to incorporate it here. He said solicitation today is not what it was years ago, understanding that is an ongoing issue and they continue to be more creative about it. He said we will be addressing that issue in relatively short order.

Mr. Dana Bush said he wanted to defer his time to Thelma Howell. Mayor Flaute said we are not going to allow that. He checked with council and said majority agreed. He said Mr. Bush was welcome to come up and he would have 3 minutes to discuss his issue. Mr. Bush said you’ve already set a precedent by allowing others to talk for 14 to 15 minutes. Mayor Flaute said the council is saying they are not going to allow that and the council rules. He said if you would like to speak, you have 3 minutes. Mr. Bush said he was not going to speak tonight.

Mayor Flaute called on Thelma Howell and asked if she had any new information. Mrs. Thelma Howell of Harlou said yes; she would like to think council is our friends and would allow us more than 3 minutes especially since a lot of people have had more than 3 minutes tonight. She said she came here to talk about solutions for Lily Creek but this is out the door and we will talk about this later. She said we have asked repeatedly about the fraudulent watershed boundaries that were created; we were told they were created by Montgomery County Soil and Water. She said Ohio Revised Code 1515.191 Surveys, Plans, Maps, Construction Specifications, Cost Estimates – upon approval of a Soil and Water Conservation District of a petition for a proposed improvement, the supervisors or their designees shall conduct all necessary surveys. She said I can read on if you like. Mayor Flaute said you have 3 minutes. Mrs. Howell said it states necessary surveys. Mayor Flaute said the project is dead. Mrs. Howell said the necessary surveys were not done. Mayor Flaute said if we get the $60,000 then we will resurrect the project. Mrs. Howell said you don’t care that ORC 1515.191 was violated and you don’t care to give us any time to speak and we only get 3 minutes. She said she is just bringing it to council’s attention that ORC 1515.191 which we were told the ORC had to be followed, she is pointing out that we said there were fraudulent boundaries. She said it states that all necessary surveys will be done and this would not be a professional survey. She said there is a website that shows how to create a watershed survey; it’s not that difficult and we were under the impression that Montgomery County Soil and Water created those maps. She said now we find out that Mr. Chodkowski did. Mayor Flaute thanked Mrs. Howell. She said you are welcome and we do have solutions for Lily Creek if anyone cares to hear those.

**ITEM 17: COUNCILMEMBER COMMENTS:** Mr. Schock said there was a question earlier about his statement of the residents doing a good job killing the Lily Creek project. Ms. Pitzer said her question was how did they know; we weren’t having any interaction with council or the city manager. Mr. Schock said maybe you weren’t but some people were. He said we heard, people talk to us and you had a huge group there. He said it puzzles him now because now he’s looking at you as wanting to police that group and wanting to know who’s talking to us. Ms. Pitzer said she already knows; she wanted to see if Mr. Schock would say who it was. Mr. Schock said he couldn’t remember their name if he had to.

Mayor Flaute said first of all, congratulations to our clerk; Mary Ann has had 9 years with the city as of February 23rd. He thanked her for sticking with the city and said they appreciate that. He said that does bring up the fact that we need to have an evaluation on the clerk and we also need to set goals for the city manager. He said his thought was we would have a special meeting and he suggested March 8th. Mr. Fullenkamp requested a start time of 6:30 p.m. Mr. Schock asked Mary Ann to send a reminder. Mayor Flaute asked if council wanted a self appraisal and council said yes. Mr. Schock asked if they were setting goals for the city manager and the clerk. Council agreed both.

Mayor Flaute welcomed Steven Matthews from the Dayton Daily News, Riverside’s new reporter. He said he did 6 weddings, one being on leap year day. He said we are having a Riverside Community Night with the Dayton Gems on March 24th at Hara Arena. He said it will be the Gems vs. the Fort Wayne Comets and everyone from Riverside will be sitting in the same area. He said there are flyers out front; tickets are regularly $14 but Riverside residents will get tickets for $10.

Deputy Mayor Denning reminded everyone that elections are Tuesday, March 6th.

Mrs. Thelma Howell said the website has a page for a public records request but it says under construction. She asked how you make a public records request. Mayor Flaute said to see the city manager after the meeting.

**ITEM 18: EXECUTIVE SESSION:** A motion was made by Deputy Mayor Denning to enter into executive session for the purpose of discussing personnel matters. Mr. Schock seconded the motion. A roll call vote was as follows: Deputy Mayor Denning, yes; Mr. Schock, yes; Ms. Campbell, yes; Mr. Curp, yes; Mr. Fullenkamp, yes; Mr. Smith, yes; and Mayor Flaute, yes. The council entered into executive session at 9:26 p.m.

**ITEM 19: ADJOURNMENT:**  The council came out of executive session at 10:02 p.m. and a motion was made by Deputy Mayor Denning to adjourn. Mr. Schock seconded the motion. All were in favor; none were opposed. The meeting was adjourned at 10:02 p.m.

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William R. Flaute, Mayor Clerk of Council