

Minutes Approved

*9/14/2021* August 2, 2021  
*As Circulated* Regular Council Meeting  
Elyria City Council

**1. CALL TO ORDER:**

The regular meeting of Elyria City Council was called to order on Monday, August 2, 2021 at 7:02 P.M. by President Stewart. President Stewart opened the meeting with a moment of reflection and followed by the Pledge of Allegiance. Virtual Council meeting. The recording/audio tape of this meeting is available on City of Elyria Channel on YouTube. (Zoom meeting)

**2. ROLL CALL--COUNCIL MEMBERS:**

PRESENT: Callahan, Cerra, Baird, Davis, Jessie, Keys, Mitchell, Oswald, Simmons, Stewart

ABSENT: Tollett

OTHERS PRESENT: SSD Brubaker, ASSD Calvert, ASSD Williams, Law Dir. Deery, Asst. Clerk Lotko, Finance Dir. Pileski, Asst. Fin Dir. John Farrell, Police Chief Whitely, Asst. Fire Chief Gall, Superintendent Terry Korzan, HR Director Yousefi

Moved by Ms. Mitchell, seconded by Mr. Cerra to excuse Mr. Tollett.

MOTION CARRIED

**4. APPROVAL OF MINUTES:**

Cerra moved, Keys seconded that the Regular Meeting Minutes of July 6, 2021 be approved as circulated.

MOTION CARRIED

**5. REMARKS AND REPORTS OF CITY OFFICIALS:**

**Council President Stewart:** None

**ASSD Williams:** No report

Mrs. Keys asked Mr. Williams in the Mayor's absence if he could please provide an update to the status of the Pops Concert., as she had received a number of calls regarding corporate donations as that is the way the concert has always run in the past. Mrs. Keys had the understanding that this year things will be different and she questioned, why? Mr. Williams, responded that the Pops concert is scheduled to take place. Lester Lynch, an Elyria High graduate will be singing along with the Pops Orchestra. Mr. Williams stated that sponsorship opportunities are in the works, a tad bit late however, an update will be provided as items are completed.

## **5. REMARKS AND REPORTS OF CITY OFFICIALS: CONTINUED**

### **Safety Service Director Brubaker:**

Mr. Brubaker provided kudos to Sanitation worker Purvie Smallwood, who helped with the assistance of placing a rescue call for a resident that was injured in her yard on Hilliard during his sanitation route. Also kudos to Firefighter Nick Pshock for work on a software system called crew sense.

SSD Brubaker also provided an update from a February E.P.A. recycle grant for a truck and chipper, the grant was awarded.

Assistant Chief Joe Pronesti has been placed as interim Fire Chief until December 31, 2021. He will take the fire exam assessment in September or October 2020. Mr. Brubaker congratulated Chief Pronesti, as well as expressed his appreciation for Assistant Chief Gall who filled in during this transition.

President Stewart congratulated Chief Pronesti and expressed his appreciation for Assistant Chief Gall.

### **Finance Director Pileski:** No report

### **Law Director Deery:** No report

Law director Deery asked that council consider adjourning into executive session to discuss the matter of pending litigation. Attorney Brian Balzer is in attendance to provide an update to council regarding some matters.

### **Police Captain Hammonds:** No report

### **Fire Chief Pronesti:**

Comments provided by Chief Pronesti regarding exception reporting.

Mr. Oswald directed a question to either the Police or SSD regarding the fence around the Police Department parking lot. SSD Brubaker responded that the project is delayed due to manufacturing product delays. He was hopeful that the project could have been completed by the middle of this month, however they are waiting on the fencing and the decorative fencing.

### **ASSD Calvert:**

ASSD Calvert provided a reminder that the State of Ohio generously funded some Covid-19 resources for small business and funding is still available. Up to thirty thousand dollars for food and beverage establishments, entertainments venues as well lodging. Up to ten thousand dollars if the small business was started January 1, 2020 through December 31, 2020. Grants are available to offset decreased revenues as a result of Covid-19.

**5. REMARKS AND REPORTS OF CITY OFFICIALS: CONTINUED****Eng. Schneider:**

Engineer Schneider explained that Friday, July 31, 2020, Governor Mike DeWine's office announced approval of a water and wastewater infrastructure grant. The grant monies are first come, first serve. Mr. Schneider submitted a referral to the council clerk's office from the floor. Mr. Schneider also provided an update on the street resurfacing, due to weather delays in other communities, it has caused a delay for our city as well. The contractor is anticipating starting later this month with the street resurfacing.

Mr. Oswald inquired about the resurfacing of Burns and Gulf Roads, considering the funding sources were different from the resurfacing project. Mr. Schneider explained the funding was not received until July, the Engineering department is in the process of bidding the projects out so that they can move forward.

**HR Director Yousefi:**

Director Yousefi shared that a leadership program is being designed for forty-three managers and supervisors that consist of seven to ten sessions of programming to include professional trainers such as Melvin Smith (Case Western Reserve University Professor/ Author). Some topics covered will include, Emotional Intelligence, Leadership and Management Assessments, Effective Practices for high Performance Teams, Strategic Leadership, Legal Compliance. The plan is a start date of October.

**6. PRESIDENT'S REFERRALS AND REMONSTRANCES:**

1. The matter of the Final Plat for Four Seasons at Chestnut Ridge - Phase 3.

REFERRED BY: Planning Commission Secretary Ballard

REFERRED TO: Planning Commission and Community Development

2. The matter of accepting the Dedication Plat for Reaser Point Crossing.

REFERRED BY: Engineer Schneider

REFERRED TO: Planning Commission and Community Development

3. The matter of the disposal of property from the Elyria Fire Department, that is no longer needed and/or unfit for public use.

REFERRED BY: Director Brubaker

REFERRED TO: Finance

4. The matter of appropriating American Rescue Plan Funds (ARP) for Revenue Replacement to the City of Elyria.

REFERRED BY: Director Brubaker

REFERRED TO: Finance

**6. PRESIDENT'S REFERRALS AND REMONSTRANCES CONTINUED:**

5. The matter of appropriating American Rescue Plan Funds (ARP) for Revenue Replacement to the Elyria Municipal Court as requested by the Municipal Judges.

REFERRED BY: Director Brubaker

REFERRED TO: Finance

6. The matter of Delinquent Storm Water Fees.

REFERRED BY: Engineer Schneider

REFERRED TO: Finance

7. The matter of adding the position of Public Information Officer to the Safety Service Department.

REFERRED BY: HR Director Yousefi

REFERRED TO: Finance

8. The matter of some changes and clean-up of language to Salary Ordinance section 165.33.

REFERRED BY: HR Director Yousefi

REFERRED TO: Finance

9. The matter of placing liens on high grass services

REFERRED BY: Director Brubaker

REFERRED TO: Finance

10. The matter of amending the IAFF (Fire Dept.) Salary exhibit to include the new position of EMT Firefighter- Fire Prevention Bureau Inspector

REFERRED BY: Asst. Finance Director Farrell

REFERRED TO: Finance

11. The matter of re-roofing the Power House Building at the Wastewater Pollution Control Plant.

REFERRED BY: Engineer Schneider

REFERRED TO: Utilities, Safety & Environment

12. The matter of the CDBG Penfield Storm Sewer Project.

REFERRED BY: Supt. Sam F. Jacob

REFERRED TO: Utilities, Safety & Environment

13. The matter of contracting CT Consultants for a preliminary Engineering Study of the Water Pumping Plant.

REFERRED BY: Engineer Schneider

REFERRED TO: Utilities, Safety & Environment and Finance Committees

14. The matter of a Kwik Kurb Center Line Delineators on E. Broad St., west of Rt. 57.

REFERRED BY: Councilperson Jessie

REFERRED TO: Utilities, Safety & Environment and Finance Committees

**6. PRESIDENT'S REFERRALS AND REMONSTRANCES CONTINUED:**

15. The matter of levying the final assessment for the replacement of private sewer services pursuant to section 932.31 of E.C.O. This authorization should be passed as an emergency.

REFERRED BY: Engineer Schneider

REFERRED TO: Utilities, Safety & Environment and Finance Committees

16. The matter of installing flashing crosswalk signals on East River at the crosswalk between University hospitals Emergency room Department and The UH parking garage.

REFERRED BY: Councilperson Keys

REFERRED TO: Utilities, Safety & Environment and Finance Committees

17. The matter of authorizing the Mayor to submit application(s) for the Water and Wastewater Infrastructure Grant and accept funds if offered.

REFERRED BY: Engineer Schneider

REFERRED TO: Utilities, Safety & Environment and Finance Committees

Items 18 - 20 Received and Placed on File in the Clerk's Office

18. List of receipts collected by each division of The Clerk of court's Office for the month of June 2021.

19. Denied Claim For Damage letter to Patrick Buckley of 178 Morgan Ave.

20. Elyria Parks Board Meeting Minutes from the May 13<sup>th</sup> 2021 Meeting.

**7. PETITIONS COUNCIL MEMBERS: None**

**8. PETITIONS LOBBY:**

Marty Martinez 358 Beebe Ave., Elyria, OH 44035- Economic Development In Elyria

Lynn M. Collins, 138 Berkley Rd., Elyria, OH 44035- Storm Sewer Exhibit "A" attached

**9. REPORTS OF STANDING AND SPECIAL COMMITTEES:**

Sponsored by:	<b><u>COMMITTEE REPORT NO. 2021- 9</u></b>
Community	WE HAVE CONSIDERED THE MATTER OF A LIQUOR
Development:	LICENSE TRANSFER REQUEST AS SUBMITTED BY ELYRIA
T. Callahan	SUNOCO GAS, LLC TO BE TRANSFERRED TO HARLEM
M. Jessie	FOOD MART & VAPE, LLC, LOCATED AT 404 EAST AVE.,
D. Mitchell	ELYRIA AND THE CITY OF ELYRIA DOES NOT REQUEST A
K. Oswald	HEARING.
J. Cerra	

Callahan moved, Mitchell seconded to accept this committee report as read.

PASSAGE:

AYE: 10

NAY: 0

ABSENT: 1

MOTION CARRIED

**10. RESOLUTIONS – FIRST READING:**

Sponsored by:	<b><u>RESOLUTION NO. 2021-17</u></b>
Finance:	A RESOLUTION APPROVING A LIS SUBMITTED BY THE
V. Stewart III	SAFETY SERVICE DIRECTOR FOR THE
P. Tollett	COLLECTION OF DELINQUENT INACTIVE UTILITY
B. Davis	ACCOUNTS AND DIRECTING THE CLERK OF
J. Baird	COUNCIL TO CERTIFY SAID ACCOUNTS TO THE LORAIN
	COUNTY AUDITOR.

Davis moved, Baird seconded to this resolution on its first reading under suspension of the rules.

SUSPENSION	PASSAGE:
AYE: 10	AYE: 10
NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED

**11. RESOLUTIONS--SECOND READING: None**

**12. RESOLUTIONS--THIRD READING: None**

**13. ORDINANCES – FIRST READING:**

Sponsored by:	<b><u>ORDINANCE NO. 2021-</u></b>
Community	AN ORDINANCE AMENDING SECTION 1131.02, CODIFIED
Development:	ORDINANCES OF THE CITY OF ELYRIA, OHIO, KNOWN AS
T. Callahan	THE ZONING ORDINANCE, TO REZONE REAL PROPERTY
M. Jessie	LOCATED ON LONGFELLOW STREET, ELYRIA, OHIO
D. Mitchell	FROM R-TH RESIDENTIAL -TWO HOUSEHOLD DISTRICT
K. Oswald	TO B-G BUSINESS- GENERAL DISTRICT
J. Cerra	

No legislation passed

**13. ORDINANCES – FIRST READING:**

Sponsored by: **ORDINANCE NO. 2021-117**  
 Community AN ORDINANCE GRANTING AN EXCEPTION TO THE CITY  
 Development: OF ELYRIA’S SUBORDINATION POLICY FOR A  
 T. Callahan COMMUNITY DEVELOPMENT REHABILITATION LOAN AS  
 M. Jessie REQUESTED BY LIZZIE M. TAYLOR.  
 D. Mitchell  
 K. Oswald  
 J. Cerra  
 Finance:  
 V. Stewart III  
 P. Tollett  
 B. Davis  
 M. Jessie  
 J. Baird

Callahan moved, Davis seconded to pass this resolution on its first reading under suspension of the rules.

SUSPENSION:	PASSAGE:
AYE: 10	AYE: 10
NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED

Sponsored by: **ORDINANCE NO. 2021-118**  
 Community AN ORDINANCE AMENDING THE COMMUNITY  
 Development: DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM YEAR  
 T. Callahan (PY) 2021 ANNUAL ACTION PLAN, AND DECLARING AN  
 M. Jessie EMERGENCY  
 D. Mitchell  
 K. Oswald  
 J. Cerra  
 Finance:  
 V. Stewart III  
 P. Tollett  
 B. Davis  
 M. Jessie  
 J. Baird

Callahan moved, Davis seconded to pass this ordinance on its first reading under suspension of the rules and declaring an emergency.

**13. ORDINANCES – FIRST READING CONTINUED:**

SUSPENSION:	EMERGENCY:	PASSAGE:
AYE: 10	AYE: 10	AYE: 10
NAY: 0	NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED	MOTION CARRIED

ASSD Dawn Calvert provided an overview and definition of what a CDC (Community Development Corporation) is and how they operate within communities. They have done a lot, however need to set up their 501c3 status. President Stewart asked to hear from the consultant Mr. Joel Ratner. Mr. Ratner is hopeful that by the end of the year a board will be established and that the 501c3 will be established as well. President Stewart explained that all information shared tonight, is traditionally discussed at committee meetings and not at a full council meeting. Mr. Oswald expressed his discontentment with the business being set up backyards in his opinion. He is hesitant in the decision to move forward due to not being in the loop going forward as things have been moving along with the CDC. Mr. Ratner accepted full responsibility for not providing monthly reports or updates and stated that he will provide efficient communication going further by way of written reports or attend meetings on a monthly basis to provide an oral monthly report. Mrs. Mitchell stated that she was in agreement with Mr. Oswald, the discussion held was committee work and committee work is not to be conducted on the council floor. She would like updates as well. One item of concern was if the CDC would be working with the local arts council. Mr. Ratner responded that yes, they have reached out to local non-profits, admittedly things did not go right in the beginning, however there is still time to make things right. Mr. Baird, stated that he has done research on Mr. Ratner. He believes that we should move forward, information was shared that council did not receive, however he does not believe that to be the fault of Mr. Ratner. President Stewart stated that he is in agreement with Mr. Oswald and Mrs. Mitchell and his greatest concern is what the contribution from the city will be to sustain the CDC. Mr. Ratner shared that the best example of a CDC that he can provide is Lakewood Alive. He suggest that the group visit them. The city dynamics are similar and the cdc has been around for seventeen years. Law Director Deery, expressed her concern that the initial grant dollars from Nord have been exhausted and that going forward would be coming out of the general fund. Mr. Ratner confirmed that to be accurate and that a proposal is pending with Nord Family Foundation and discussions are being had with Nordson and the Community Foundation of Lorain County and other philanthropic sources.



Community  
 Development:  
 T. Callahan  
 M. Jessie  
 D. Mitchell  
 K. Oswald  
 J. Cerra  
 Finance:  
 V. Stewart III  
 P. Tollett  
 B. Davis  
 M. Jessie  
 J. Baird

**ORDINANCE NO. 2021-119**

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH JOEL RATNER COMMUNITY PARTNERSHIP, LLC.

Tollett moved, Baird seconded to pass this ordinance on its first reading under suspension of the rules.

SUSPENSION:  
 AYE: 10  
 NAY: 0  
 ABSENT: 1  
 MOTION CARRIED

PASSAGE:  
 AYE: 10  
 NAY: 0  
 ABSENT: 1  
 MOTION CARRIED

Sponsored by:  
 Utilities, Safety  
 & Environment  
 D. Mitchell  
 D. Simmons  
 J. Keys  
 J. Cerra

**ORDINANCE NO. 2021-120**

AN ORDINANCE TO PERFORM A MINOR REHABILITATION PROJECT ON SR10 FROM (US20) TO (IR480) AND ON USR20 FROM (SR10) TO (CHESTNUT RIDGE RD.) IN LORAIN COUNTY. THIS PROJECT'S LIMITS ARE WITHIN THE CITY OF ELYRIA AND USR20 AND WITHIN THE CITY OF NORTH RIDGEVILLE ON SR10. THE WORK INCLUDES CONCRETE AND ASPHALT CONCRETE REPAIRS, RESURFACING THE ROADWAY FULL WIDTH, PAVING ALL OF THE INTERCHANGE RAMPS, BRIDGE MAINTENANCE WORK AND PAVEMENT MARKINGS.

Mitchell moved, Davis seconded to pass this ordinance on its first reading under suspension of the rules.

SUSPENSION:  
 AYE: 10  
 NAY: 0  
 ABSENT: 1

PASSAGE:  
 AYE: 10  
 NAY: 0  
 ABSENT: 1

**13. ORDINANCES – FIRST READING CONTINUED:**

MOTION CARRIED

MOTION CARRIED

Sponsored by: Utilities, Safety & Environment D. Mitchell D. Simmons J. Keys J. Cerra	<b><u>ORDINANCE NO. 2021- 121</u></b> AN ORDINANCE AUTHORIZING THE MAYOR TO APPLY TO THE STATE OF OHIO FOR ROUND 36 GRANT AND/OR LOAN, ADMINISTERED BY THE OHIO PUBLIC WORKS COMMISSION, FOR REPAIR, RECONSTRUCTION AND RESURFACING OF CERTAIN ROADS IN THE CITY OF ELYRIA, AND AUTHORIZING THE ACCEPTANCE OF SAID GRANT AND/OR LOAN, IF OFFERED, AND TO PROVIDE LOCAL FUNDS AS NEEDED TO COMPLETE SAID PROJECTS AND DECLARING AN EMERGENCY.
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Mitchell moved, Davis seconded to pass this ordinance on its first reading under suspension of the rules and declaring an emergency

SUSPENSION:	EMERGENCY:	PASSAGE:
AYE: 10	AYE: 10	AYE: 10
NAY: 0	NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED	MOTION CARRIED

Sponsored by: Utilities, Safety & Environment D. Mitchell D. Simmons J. Keys J. Cerra	<b><u>ORDINANCE NO. 2021-122</u></b> AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT FOR THE 2021 CRACK SEALING PROJECT, AND DECLARING AN EMERGENCY.
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Mitchell moved, Davis seconded to pass this ordinance on its first reading under suspension of the rules and declaring an emergency.

SUSPENSION:	EMERGENCY:	PASSAGE:
AYE: 10	AYE: 10	AYE: 10
NAY: 0	NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED	MOTION CARRIED

**13. ORDINANCES – FIRST READING CONTINUED:**

Sponsored by: **ORDINANCE NO. 2021-123**  
 Finance: AN ORDINANCE AUTHORIZING THE SUBMISSION, THROUGH  
 V. Stewart III THE LAW DIRECTOR’S OFFICE, OF APPLICATIONS TO THE  
 P. Tollett OFFICE OF ATTORNEY GENERAL, STATE OF OHIO, AND TO  
 B. Davis ACCEPT, IF OFFERED, A 2020-2021 VICTIMS OF CRIME ACT  
 J. Baird **(VOCA)** GRANT AND THE 2021-2022 STATE VICTIMS  
 ASSISTANCE ACT **(SVAA)** GRANT FOR THE VICTIM’S  
 ASSISTANCE PROGRAM, AND DECLARING AN EMERGENCY.

Davis moved, Baird seconded to pass this ordinance on its first reading under suspension of the rules and declaring an emergency.

SUSPENSION:	EMERGENCY:	PASSAGE:
AYE: 10	AYE: 10	AYE: 10
NAY: 0	NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED	MOTION CARRIED

Sponsored by: **ORDINANCE NO. 2021-124**  
 Finance: AN ORDINANCE AMENDING ORDINANCE NO. 2021-50, KNOWN  
 V. Stewart III AS THE “2021 PERMANENT APPROPRIATIONS ORDINANCE.” TO  
 P. Tollett CHANG FUNDS IN VARIOUS ACCOUNTS.  
 B. Davis  
 J. Baird

Davis moved, Baird seconded to pass this ordinance on its first reading under suspension of the rules.

SUSPENSION:	PASSAGE:
AYE: 10	AYE: 10
NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED

**13. ORDINANCES – FIRST READING CONTINUED:**

Sponsored by: **ORDINANCE NO. 2021-125**  
 Utilities, Safety & Environment AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT FOR THE EAST PARK PAVILION INSTALL AND CONCRETE WORK PROJECT, AND DECLARING AN EMERGENCY.  
 D. Mitchell  
 D. Simmons  
 J. Keys  
 J. Cerra

Mitchell moved, Davis seconded to pass this ordinance on its first reading under suspension of the rules.

SUSPENSION:	EMERGENCY:	PASSAGE:
AYE: 10	AYE: 10	AYE: 10
NAY: 0	NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED	MOTION CARRIED

Sponsored by: **ORDINANCE NO. 2021-126**  
 Utilities, Safety & Environment AN ORDINANCE AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT FOR THE FULLER ROAD PEDESTRIAN BRIDGE PROJECT, AND DECLARING AN EMERGENCY.  
 D. Mitchell  
 D. Simmons  
 J. Keys  
 J. Cerra  
 Finance:  
 V. Stewart III  
 P. Tollett  
 B. Davis  
 J. Baird

Mitchell moved, Davis seconded to pass this ordinance on its first reading under suspension of the rules. Tollett moved , Davis seconded to add emergency clause.

SUSPENSION:	EMERGENCY:	PASSAGE:
AYE: 10	AYE: 10	AYE: 10
NAY: 0	NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED	MOTION CARRIED

**13. ORDINANCES – FIRST READING CONTINUED:**

Sponsored by: **ORDINANCE NO. 2021-127**  
 Utilities, Safety AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN  
 & Environment AGREEMENT TO PURCHASE TEN (10) EVOLIS XL SOLAR  
 D. Mitchell POWERED RADAR SPEED SIGNS AND POSTS, AND DECLARING  
 D. Simmons AN EMERGENCY.  
 J. Keys  
 J. Cerra  
 Finance:  
 V. Stewart III  
 P. Tollett  
 B. Davis  
 J. Baird

Mitchell moved, Davis seconded to pass this ordinance on its first reading under suspension of the rules and declaring an emergency.

SUSPENSION:	EMERGENCY:	PASSAGE:
AYE: 10	AYE: 10	AYE: 10
NAY: 0	NAY: 0	NAY: 0
ABSENT: 1	ABSENT: 1	ABSENT: 1
MOTION CARRIED	MOTION CARRIED	MOTION CARRIED

**14. ORDINANCES–SECOND READING: None**

**15. ORDINANCES–THIRD READING: None**

**16. COMMITTEE CALLS:**

**COMMUNITY DEVELOPMENT** 8/30/2021 6:00 P.M. All Referred Items Council Chambers w/Law Director, SSD, Engineer, Bldg. Insp.

**VIRTUAL/ZOOM**

**FINANCE** 8/30/2021 Following CD All Referred Items Council Chambers w/Mayor, Fin. Director, Law Director, SSD, Engineer

**VIRTUAL/ZOOM**

**UTILITIES, SAFETY & ENVIRONMENT** 8/18/2021 6:00 P.M. All Referred items w/ Law Director, SSD, Engineer

**STRATEGIC PLANNING** 9/7/2021 Immediately following Council All Referred Items Council Chambers W/ Mayor, Safety Service Director, Finance Dir., Law Director, Engineer

**VIRTUAL/ZOOM**

**17. MISC AND UNFINISHED BUSINESS:** None

Moved by Mr. Baird, seconded by Mr. Cerra to go into executive session at 9:01 P.M.

Roll call

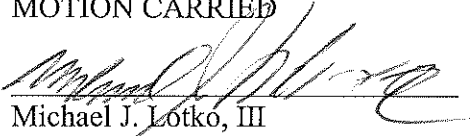
Moved by Davis, seconded by Baird to come out of executive session at 9:46 P.M.

Roll call

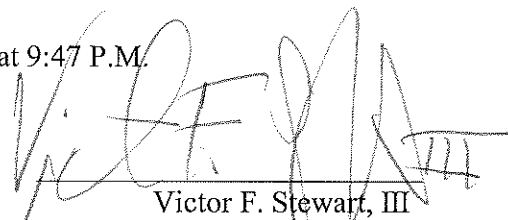
**18. ADJOURNMENT:**

Baird Motion to adjourn, Cerra seconded at 9:47 P.M.

MOTION CARRIED



Michael J. Lotko, III  
Clerk of Council



Victor F. Stewart, III  
President of Council

RLP/

EXHIBIT "A"

REQUEST TO ADDRESS COUNCIL

NAME Lynn M Collins DATE 8-2-21  
ADDRESS 138 Berkley Rd PHONE 366-2101  
REPRESENTING self EMAIL lmcollins138@worldnet.att.net  
(If self, please specify)

**PLEASE NOTE: REMARKS ARE LIMITED TO THREE (3) MINUTES  
A COPY OF YOUR REMARKS ARE TO BE GIVEN TO THE CLERK OF  
COUNCIL TO BE DISTRIBUTED TO ALL COUNCIL MEMBERS**

Have you contacted the appropriate department? Yes  No

Who in the department was contacted? Dist Mayor's Councilman Date

Have you contacted the Mayor? Yes  No  not this Mayor

Have you contacted the Safety Service Director? Yes  No

Have you contacted your Ward Council person? Yes  No

SUBJECT:  
Storm Sewer

**PLEASE NOTE: MATTERS WHICH HAVE HAD, OR WILL HAVE A PUBLIC  
HEARING SHALL NOT BE OPEN FOR DISCUSSION FROM THE LOBBY DURING  
THE COUNCIL MEETING.**

This was obtained  
from the Elyria Public  
Library. I do not  
think the city had  
a web site then

Shea



CHAPTER 1389  
Grading and Drainage

EDITOR'S NOTE: Reference should also be made to Chapter 23 of the Dwelling House Code (see Chapter 1303 herein).

- |  |  |
|--|--|
| 1389.01 Written approval to change grade required. | 1389.03 Water accumulations prohibited; correction required. |
| 1389.02 Permit application; fee; inspection.       | 1389.99 Penalty.   |

CROSS REFERENCES

- Removal of putrid substances from lots - see GEN. OFF. 521.05  
Sewers and sewage - see S. & P.S. Ch. 931  
Water - see S. & P.S. Ch. 939  
Lot surface drainage - see P. & Z. 1109.05(b)(2)E.  
Grade differences - see P. & Z. 1171.13

**1389.01 WRITTEN APPROVAL TO CHANGE GRADE REQUIRED.**

No person shall cause the grade of a lot in the City to be increased by filling, or decreased by excavation, so that the flow of water is altered from that existing before any filling or excavating without first securing written approval from the City Engineer. Such filling or excavating shall be done only to the extent recommended by the Engineer with such culverting, tiling or ditching as approved to provide necessary drainage. (Ord. 65-31. Passed 3-15-65.)

**1389.02 PERMIT APPLICATION; FEE; INSPECTION.**

(a) If a person desires to make a change in the grade of any land in the City, he shall present to the City Engineer a written application requesting permission to make such change, enclosing therewith a plat of the land involved reflecting the elevations before and after the change in grade and shall set forth the method of collecting surface water so as to protect the adjacent property and the type of materials to be used and the methods by which the materials shall be used. A ten dollar (\$10.00) fee shall accompany such application.

Upon receipt of the application, the City Engineer shall view the premises and determine if the proposed change in grade provides for proper collection of surface water so as to protect the adjoining property. If the same is acceptable, he shall issue a written permit to the applicant. Upon completion of the change in grade of the premises involved, the applicant shall notify the Engineer in writing and the Engineer shall inspect the premises to determine if the change of grade has been performed consistent with the plans submitted to him.

copy of my  
formal complaint to  
City, Dated Apr 12, 96

—  
note C.C.'s

—  
I gave the city their  
Sanitary Water Program.  
A few meetings with Mayor  
Keys.

Mr. Lynn M. Collins  
138 Berkley Drive  
Elyria, Ohio 44035  
216-366-7101

April 12, 1996

TO: Lonny G. Shippy, City Engineer

REFERENCE: Your Correspondence of February 27, 1996

Dear Mr. Shippy:

Please be advised that I and the other residents of Berkley Drive will need an extension of time, and further guidance and coordination in replacing our sanitary laterals.

In discussing the matter with the other affected residents one of our prime consideration was that in view of Council and the City's acceptance of responsibility for that portion of sanitary laterals on far curb lawns and under the street we wish to make certain that our repairs of our laterals, and the City's repairs of our laterals be conducted in such a manner that we will not be forced to suffer the expense and inconvenience of tearing up our lawns, shrubs, and street more than once.

Being complete neophytes in manners of this type we feel that - ex-officio, the administration - through your office - should provide us with at least five perspective qualified contractors so that we can attempt to establish thorough and adequate parameters to put the matter out for bid, and permit you to professionally coordinate and supervise all sanitary lateral repairs to the extent of adequacy of completion to the benefit of our street, the Fourth Ward, and the City.

We residents of Berkley Drive understand the watertight integrity of sanitary laterals not to be just our problem: but a city-wide problem, and not just a concern of our street and our ward.

We see our street as the apparent paradigm for the remainder of the Fourth Ward and the City. We assume ourselves to be the beginning the administration and council's attempt to undertake the citywide upgrade of this portion of our aging city's infrastructure. We presume it to be the beginning of the undertaking of an ongoing city-wide program to correct a city wide problem - or we would not be subjected to it. And conversely: the administration and council would not have shown the consideration and forethought to make all of us able to afford it.

Respectfully,

Lynn M. Collins

1 Atatch:

Letter from Shippy, February 27, 1996

cc: Mayor

Councilman McFrederick

Councilmen-at-Large

Lynn M. Collins  
138 Berkley Dr.  
Elyria, Ohio 44035-3625

October 16, 2012

Dear Neighbor,

As you should be well aware by now there are no dedicated storm sewers on Berkley Drive. The residents of your property at one time saw fit to extemporize a storm sewer for themselves into my front yard. They had no legal grounds to do this. When the city went through and made us all remove our downspouts somewhere along the line the owners of your homes saw fit to reconnect yours into my property, or back into their footer drains. I am taking this opportunity to advise you that with the developments in the neighborhood I can no longer be gracious and afford you this luxury: I can no longer afford to maintain your property at the expense and detriment of my own. I hope that you appreciate that most people would have acted in their own pecuniary best interest years ago. Therefore, you certainly cannot fault me for taking this action now.

I will be disconnecting, and disableing your personal "storm sewer" where it flows into my property. I will be doing so before November 15th. If you have yard drainage, downspouts, or sump pumps, that are connected to this extemporized storm sewer it obviously would be to your advantage to disconnect and correct them, and in the case of sump pumps pit them.

As you know: because I had no choice, due to flooding, I had to dig up most of my house, rebuild a sizable portion of my basement walls, replace most of my footer tile, and instal a sump pump. The street drainage basin that is located in my front yard will no longer support the load that your properties are placing on it. I must drain my property first. My family and I have maintained this drainage since 1955 at our own expense and effort, and permitted you the luxury of its use. Hence forth: if the water from your property reaches my yard it will be on the surface of the ground. The city's mismanagement of expansion abutting Berkley from Overbook, and the inability of all of us to run our downspouts and yard surface surface water into the city's sanitary sewers has changed the surface water circumstances for us on Berkley Drive. I have already spent thousands of dollars.

For your information: I met with the Mayor Keys on at least one occasion when he was in office, and his city engineer on at least two occasions. On September 20th of this year I met with the city's Safety Service Director, and the new city engineer on my complaints about storm water drainage and property damage. I went to the city council meeting on October 1st and publicly demanded of the council that they take some action on my well documented disclosure of my problems starting in the mid 80's.

I tell you this so that you know that it is public knowledge that we have surface water problems on Berkley Drive, and to let you know well in advance what action I am taking in my own interest.

Trying to be a good neighbor,

Lynn M. Collins  
138 Berkley Dr.  
Elyria, Ohio 44035-3625

October 16, 2012

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Trying to be a good neighbor,

Brown Sr  
282-5435

S O

34  
1156  
1212

Mr. Lynn M. Collins  
138 Berkley Drive  
Elyria, Ohio 44035  
216-366-7101

934 -

221 = 222

LSE 0798-

December 19, 1991

282-5435

282-5435

TO:Lonny G. Shippy, City Engineer  
THRU:Michael B. Keys, Mayor

REFERENCE:Your Correspondence, copies attached, dated December 10, 1991.

Sir:

1.Reference the first paragraph of your letter: as my old college logic professor, Marion Tinsler, Ph.D., would say, "I think that you have an undifferentiated middle." I.e. there are no storm sewers on Berkley Drive!

2.Therefore, if you do a dye test of the downspouts, and footer tile of all the residences on Berkley Drive, you will find that they all flow into the "sanitary laterals" of their residences.

3.I first brought this situation to the attention of the city on May 31, 1985, when I filed a formal complaint with the City Solicitor's office about a violation of Elyria City Ordinances 1389.01 and 1389.02, which was never been resolved.

4.On January 22, 1987, I spoke with you (Mr. Shippy) in your office about the same problem again, and I'm certain that the Berkley Drive sewer situation was brought up. I also have a copy of in my files of a letter to Mr. Shippy dated May 6, 1987, requesting status on enforcement action on my formal complaint of May 31, 1985. I would assume that the sewer situation on Berkley Drive was again brought up, since the nature of my complaint was a request to get a neighbor to "restore the status quo ante" drainage wise to my property: that was perhaps reduced in value as a result of some major improvements that he made to his residence.

1156

L. M. COLLINS  
138 Berkley Dr.  
Elyria, Ohio 44035

L. M. COLLINS  
138 Berkley Dr.  
Elyria, Ohio 44035

L. M. COLLINS  
138 Berkley Dr.  
Elyria, Ohio 44035

5. I too read the newspapers, and am well aware of the City's sewer problems, and I want to be a good citizen. In any complaints that I have had with the City, I have always conducted myself as "the typical reasonable and prudent man" always alluded to in common law, and I am continuing to do so.

6. Therefore, since the problems addressed in your letter are major improvements of a significant financial nature to one of my common means, unless His Honor, Mayor Keys, and the city, come down to Berkley Drive and dye test every residence, and "mandate" that a storm sewer be installed on the street, and that everyone on the street tie into it, I am not going to take any action without further clarification and coordination from your office.

7. The nut of the situation is this: I can barely see my way to spend this kind of money in present circumstances, can certainly afford to only spend it once, can't complain about the cost of being a good citizen, don't want to be the only one to dance to that proverbial tune, and don't want to have to make what we use to term in my days in the military "a repeat command performances" to comply with the city's strictures.

Respectfully,

Lynn M. Collins

*Paul Krugner*

189 4:47 ggrw KAKBT  
Bu Drive - Tape

3492  
Bill Meade  
20/5872-550 Bob  
29 4244-2964

323-1080  
322-8542  
365-6242  
364-6100

987-8602 M  
Elyria Ohio 44035

1825-228  
322-5781

216-238

210  
Rim Escrow

3 Attach:

- 1 Letter from Shippy: Dec. 13, 1991
- 2 Dye Test report: Nov. 13, 1991
- 3 Copy of my letter to Shippy: May 6, 1991

Arthur Weiss  
322-8542

1104 - 14-96  
322-4243

282-5425  
23-6255  
277-2111  
277-2111  
277-2111

277-2111  
L. M. Collins  
138 Berkley Dr.  
Elyria, OH 44035  
419-386-7101

CAB 75 LIL

365-6242  
364-6100  
Stop Sign

4/17



CITY OF ELYRIA, OHIO  
CITIZEN'S COMPLAINT REPORT

DATE: May 31 88

Lynn M. Collins 138 Barkley Dr Elyria OH  
NAME: (Complainant) ADDRESS

Telephone No. 366-7101 Date & Time of Incident: \_\_\_\_\_

Description of Property Damaged & Present Value: \_\_\_\_\_

Place of Occurrence: Residence 138 Barkley

Description of Injuries Received: Property degradation

Name of Suspect: Robert S. Cook Relationship: Neighbor

Employment of Suspect: R.W. Baskett N. Ridgeway

Address of Suspect: 165 Overbrook

Witnesses' Names & Addresses: \_\_\_\_\_

FAILED Statement of Incident: \_\_\_\_\_

The above has made construction  
improvements and excavations on his property,  
165 Overbrook Rd, Elyria, in such a  
manner ~~in violation of Elyria City Code~~  
~~1389.01 + 1389.02~~ - ~~as such a violation~~  
to cause flash flooding, property damage and  
denigration. In violation of city ordinance  
1389.01 + 1389.02.

(USE REVERSE SIDE IF NEEDED)

I hereby declare that the above report is being made to the Elyria Prosecutors' Office with a request for a criminal investigation and assistance. I acknowledge that I have made the above report truthfully and in good faith and declare the truth of the above statements, knowing that this report made by me is subject to criminal prosecution. If an affidavit is subsequently needed, I realize that I have no right or power to dismiss the charge; all control of the case is vested in the Court. I also understand that if I am subpoenaed to testify as the result of an affidavit that I may sign, I have an obligation to testify, and if I fail to appear, I may be held in contempt of Court.

Signature: \_\_\_\_\_

RES FOR PROSECUTORS' USE ONLY:

CHARGES TO BE FILED:    yes    no	CHARGES:
BOOK ORC NO.	WARRANT OR SUBPOENA

Lynn M. Collins  
138 Berkley Rd.  
Elyria, Ohio 44035  
440-366-7101

July 2020

Fellow Berkley Residents,

I have 66 years on Berkley Road, and now I am formally ~~am~~ writing this letter to you and formally requesting that you join with me in asking the City of Elyria to construct a storm sewer on the south side of Berkley Road.

I have enclosed pictures of my drainage problems for you to look at. After the distribution of these pictures no one can state that our street does not have a major drainage problem. The problem is here and will persist as long as the street exists. When I turn this property over to the next owner he or she will be well advised of my efforts to cure the problem connected with it, and the adjoining properties. My actions have only mitigated the problem. No investor in this property would be self destructive enough to undo or ignore my actions to mitigate its problems and abrogate the property rights that come with owning 138 Berkley Drive. They would only be destroying their own investment.

At the time my parents acquired this property in 1954 it was done through "R.E. Bob Clawson." Bob and his wife Goldie lived at 125 Berkley, and looking through old directories probably knew my father since before WWII. We moved here from 241 East Eighth Street where my parents lived when I was born. Bob and Goldie moved to Arizona I believe in the late 50's. My parents visited Las Vegas and went to Arizona and visited with the Clawsons the summer before my father died. My father started in business on Cleveland Street early post WWII. There were no significant problems with this property or Bob would not have sold it to my parents: and had the problem of having them as a neighbor too. My father became well aware of the power of easements through his property dealings on Cleveland Street. People were always seeking one from him.

The drainage problems have been caused mainly by changes on 165 Overbrook. On property then owned by the Battin family who sold it to the Cooks. I was a friend to Mark Battin until he was in Junior High, and at that time I became well aware of the various aspects of that property. Battins built on the property, and the Cook's significantly so. I do not know the present owners. With the addition and improvements that the Cooks did the people of Berkley were inundated by surface water. Everyone from house number 166, the then Dall property, east to Gulf Road. By the late 70's the problem was extensive. When my mother took ill in the early 80's, I wondered if this property was even saleable as it was. There are disclosure laws connected with real property. I took over the property from my mother's estate in 1985 when my mother passed. I soon invested about \$11,000 dollars in the house by having all of its foundation that was exposed to the outside dug up, and all of the footer tile replaced, and a sump pump installed in a silo at the northwest corner of my house. Circumstances forced me to do this to keep the house from falling in and being washed away. I have custody of the street drain installed by my mailbox. My sump pump drains into it. That drain's outlet is only 6 inches in diameter all the way to the ravine which leads it to the Black River. It was put in when the street was put in by the street's developer or Elyria Township. It crosses under the street and drains into the ravine on 137 Berkley, the Becker property.

The ravine on the Becker property is the lowest point on Berkley Road, and was crafted by Mother Nature to drain all surface water from the cul-de-sac to the top of the street at Gulf Road. Mother Nature created it to receive all of the surface drainage from this ravine's south, east, and west. The basic "lay-of-the-land" cannot be denied for drainage purposes. Water always runs downhill. The Becker property constitutes a public utility for drainage. The late Mr. Becker had the west wall of his basement replaced, and blocked the original outlet into the ravine by having the resulting rubble dumped onto it. If I remember he did this before moving into the house. I have a picture of the original outlet, and showed it to him to inform him of his error and problem.

The people to the west of me, house numbers 140 and 148, have improvised a storm drain for their own use onto my property to gain access to the six inch drain going to the ravine across the street. That is a street drain, and not a public storm sewer. I destroyed that private enterprise where it enters my property. It will never be replaced unless we residents get the City of Elyria to put in a storm sewer. The only way for those to the west of me to access my yard and the ravine across the street on the north side of the street is via the surface of the ground. In the past, and presently, they are managing their property as if they have a storm sewer. They do not have one. I have already spent legal fees against city action towards me for my action. Things will stay as they are. In essence: I took from my neighbors what they had at my expense, and did not legally have the right to use. They are now stuck as I am: with no storm sewer. Under no circumstances will there ever be a storm sewer on Berkley Road unless we residents agree to be accessed for it!

In fact: there are no easements recorded on my deed, and none on the deeds of the surrounding properties to grant any access to dump water into my property in any manner but via the surface of the ground. My actions were forced by my desire to protect my property and asset. Changes around me forced me. With my forewarning and this distribution of facts no future owner of my property would be dumb enough and self-destructive to change my actions. They would only add to their problems. Also, no one on Berkley Road can deny these drainage issues after I disseminate these facts and pictures.

In the last few years I spent in excess of \$12,000 to keep up my property by taking out a tree, removing a stump, and installing \$12,000 worth of drainage into the 6 inch drain in my front yard. To have permitted the status quo to continue would have been self destructive to me and my property. My parents did not acquire this property to enhance the lives of their neighbors, but to live in and raise their family. I am acting in extension of that effort as the present owner of 138 Berkley Road. When I succumb to age and pass the property on to another the problem will still be here. We need a storm sewer for all of our benefits. Everyone on the south side of the street has drainage issues, and I hereby am stating that without a storm sewer the property values on the street will only decline as the problem becomes more widely known throughout the community.

The past owners of the property to my west have not treated me well when I granted them access to my property. The people to my west even asked me if they could use my property to build onto their house. The property to my west was owned by Rusty and Vivian Atkinson when my folks bought the property. In about 1955 my father asked them why they bought it. He said it is built wrong. It is built to its edges. Full width of the lot with its semi-attached garage. It runs the width of the lot and is built to a few feet of its lot lines. It leaves no access to their property for maintenance. Someday someone will have to take down the garage and build a new garage towards the southwest corner of the lot. The homeowner will then be able to have access to their complete property and drain it. Akinsons moved to California within a couple years. The property to my west seems to change hands frequently as its problems and limitations become realized.

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