

RECORD OF PROCEEDINGS
Minutes of Bellbrook City Council Special Meeting
April 27, 2020

Due to the COVID-19 pandemic and Ohio's stay-at-home order, Council held its April 27, 2020 regular City Council Meeting using Zoom's remote meeting platform.

PRESENT: Ernie Havens (via ZOOM)
T.J. Hoke (via ZOOM)
Forrest Greenwood (via ZOOM)
Elaine Middlestetter (via ZOOM)
Nick Edwards (via ZOOM)
Mayor Mike Schweller (via ZOOM)

ALSO PRESENT: City Manager Melissa Dodd

Mayor Schweller called the meeting to order at 7:00 pm.

FORMAL APPROVAL OF MINUTES

After polling members of City Council about regular special meetings minutes of March 27, 2020 Mayor Schweller declared the minutes approved.

ROLL CALL

Mr. Havens, yes; Mr. Greenwood, yes; Mrs. Middlestetter, yes; Mr. Edwards, yes; Mayor Schweller, yes.
Dr. Van Veldhuizen was excused due to technical issues.

MAYOR'S ANNOUNCEMENTS

T.J. Hoke took the oath of office. The Mayor and Council welcomed Mr. Hoke who then joined the meeting.

RESOLUTIONS

Mr. Greenwood read **Resolution 2020-H A Resolution Authorizing the City Manager to Sign an Agreement with the Greene County Engineer's Office for the Collective Paving Program for 2020.**

The City Manager Mrs. Dodd explained that the Service Director had reached out to the Greene County Engineer concerning how the COVID-19 pandemic might affect the paving program. The City had expected to have more money for the project this year due to the money received from the gas tax. The budget projection was that \$150,000 would come from the Capital Improvement Fund and \$50,000 from the Streets Fund. The total from Greene County is \$182,720.00. The Service Director said that the amount could be cut back. The largest section of paving is Bellemeade Drive. Council has choices that could be made.

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Mr. Edwards asked when the paving occurs. Mrs. Dodd answered that it is usually in August or September. He expressed his concern that the money that would come from the gas tax might not be available due to people's change in driving habits.

Mrs. Middlestetter asked when the cutoff date is for the paving program and Mrs. Dodd answered that she could get that answer.

Mayor Schweller stated that he would prefer to go back to the \$150,000 allocation from years past.

Mr. Havens asked if any of the roads on the list could go another year before being paved. The City Manager relayed that it is possible, but the Service Director is concerned with the condition of Bellemeade which is also the largest percentage of the proposed plan.

Mr. Edwards asked how much the City saves by being in the program. Mrs. Dodd said that she could research the answer, but this is how most jurisdictions do it.

Council discussed tabling the Resolution until answers can be obtained concerning the cutoff date for changes, priority list of streets, and how much it would cost to do the paving on our own. Council could hold a special meeting or bring the Resolution back at the May 11th meeting.

Mr. Edwards made a motion to table **Resolution 2020-H A Resolution Authorizing the City Manager to Sign an Agreement with the Greene County Engineer's Office for the Collective Paving Program for 2020**. The motion was seconded by Mr. Havens. The Clerk called the roll. Mr. Edwards, yes; Mr. Havens, yes; Mr. Hoke, yes; Mr. Greenwood, no; Mrs. Middlestetter, yes; Mayor Schweller, yes. The motion passed 6-0.

Mr. Havens read **Resolution 2020-I A Resolution Authorizing the City Manager to Sign a Memorandum of Understanding between the City of Bellbrook, Sugarcreek Township, and the Bellbrook Sugarcreek Parks District for the Purpose of Outlining Park District Commissioner Representation and Selection Process**.

Mr. Havens explained that this plan was created with the help of a Greene County Magistrate to ensure that Bellbrook has the opportunity for a citizen to be appointed to sit on the three-person commission.

Mrs. Dodd explained that originally there would be a term expiring in May, but due to the pandemic the date has been pushed back. The current commissioners are Randy Tischer, Howard Ackerman, and Doug Wampler whose term is expiring.

Mr. Havens made a motion to adopt **Resolution 2020-I A Resolution Authorizing the City Manager to Sign a Memorandum of Understanding between the City of Bellbrook, Sugarcreek Township, and the Bellbrook Sugarcreek Parks District for the Purpose of Outlining Park District Commissioner Representation and Selection Process**. Mrs. Middlestetter seconded the motion. The Clerk called the roll. Mr. Havens, yes; Mrs. Middlestetter, yes; Mr. Hoke, yes; Mr. Greenwood, yes; Mr. Edwards, yes; Mayor Schweller, yes. The motion passed 6-0.

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CITY MANAGER REPORT

Mrs. Dodd is hopeful that plans to reopen begin soon but details are not available yet. She explained that staff has been able to work remotely very well. Updates will be announced on the website. The Police, Fire, and Service Departments are still running smoothly and taking all necessary precautions.

Progress is being made on preparing to repair North Belleview Road. Soil borings have been made. After they are analyzed the next steps can be determined.

The next topic is the Highview Terrace walking path. The property owner who has been asking for the path to be removed from their property is still asking the City for decisions. The property owner has emailed all of the City Council members but since it cannot be discussed by email due to open meeting laws, it can be discussed now. Extensive staff research has shown the history of the path placement. The request to move the path went before the Planning Board who voted to leave the path where it is located on the record plan that was approved by the City and County. The property owners were not satisfied with that decision and brought it to City Council. The topic was left with the fact that any change to a recorded plan had to come from the developer to the Planning Board and then Council. The City does not have the authority to make any changes.

Mrs. Middlestetter stated that she understood that the plan that first included the path was recorded in 2016. An update was recorded in 2017 but no change was made to the path on that one.

Mr. Greenwood added he has studied the subject including the decision of the Planning Board. He believes Council has allowed a lot of discussion on the topic. His opinion is that he wants the path to remain to encourage walkability. He agrees that any change has to go through the official steps.

Mr. Havens asked if there is anything the City can do to help the resident with the trespassing issue. The City Manager stated that the Police respond anytime they have been called and they talk with the resident.

Mr. Havens asked when the developer plans to build the path or if it is possible to build. Mrs. Dodd answered that the developer was looking to put the path in last summer and discussed materials with the City's Service Department.

Mr. Hoke added that in 2011 when he moved to Bellbrook the City Manager at the time spoke of a path going in there.

Mrs. Middlestetter explained that she was on the Planning Board back at that time the original discussions of a walking path was a path along the Little Sugarcreek. The path in the development came later. Mrs. Dodd stated that because the path along the creek would require a way to cross the creek to Magee Park and would require money. The path in Highview Terrace was placed by the developer with discussions with the City. The major change that happened in 2016 was the shortening of Sugar Maple Place due to the grade of the land. This change removed the second egress of the development. This effected many things including the need for a gated emergency exit and the reconfiguring some of the lots to larger estate lots. And this is when a pathway to Dot's and downtown was proposed.

Mrs. Middlestetter added that the steep terrain at the end of Sugar Maple Place explains why trespassers are cutting through the owner's property.

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Mr. Havens asked if the City becomes responsible for the path after the developer builds it. Mrs. Dodd answered that the City is not responsible. The path becomes the responsibility of the HOA as stated on the record plan which is normally how it is done.

Mrs. Middlestetter explained that this path is on private property, not property owned by the HOA.

Mr. Hoke asked if the HOA had the power to put a gate on the path to only allow residents to use it. Mrs. Dodd does not know of anything that would prevent that.

NEW BUSINESS

• **Senior signs**

Mrs. Dodd explained that a resident brought this idea to the City. Due to the school year being cut short and the graduation ceremony plans unclear, there is an idea to put up a sign for each senior student with their name on it somewhere publicly visible graduation week.

Council thought this was a great idea and maybe become a tradition. Mr. Havens made a motion to waive the sign ordinance for senior signs May 14 through 18. The motion was seconded by Mr. Hoke. The Clerk took the roll. Mr. Havens, yes; Mr. Hoke, yes; Mr. Greenwood, yes; Mrs. Middlestetter, yes; Mr. Edwards, yes; Mayor Schweller, yes. The motion passed 6-0.

• **City Financial Discussion Related to COVID-19 Pandemic**

The City Manager explained that after communications from the County Budget Commission municipalities are preparing in case there are tax revenue losses. Typically, the City files a tax budget in July and in August the City uses for budgeting. The Commission shared possible decreases in property tax and local government funds. They are projecting a 15% decrease in the property tax collections for the second half of the year and 10% less than the overall amount certified. Legislation is being discussed to extend the due date for property taxes. The State reimbursement for the homestead owner occupancy credit and the non-business credit are expected to remain stable.

The local government funding is projected a 40% decrease. This funding is based on a percentage of sales tax revenue collected.

The City might also see a decrease in the amount we receive from the gasoline tax due to people driving less and low prices. In March the City received \$38,000 and in April it was \$35,000.

Mrs. Dodd went over the projected effects by fund for Bellbrook and showing a total potential impact of \$339,000.

Mayor Schweller added that the property taxes would be made up at some time but the \$38,000 from the local government fund will probably be lost money.

Mr. Edwards asked if the economic situation in 2008 effected the City's budget. Mayor Schweller said that the City did see deferrals, but the City had more money in the General Fund. Over the last 10 years the local government fund has drastically cut the amount of funds for municipalities.

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COMMITTEE REPORTS

- A. Service – Mr. Greenwood reported that the service department is still working. PFAS testing will be starting soon.
- B. Safety – Mr. Greenwood commented that this committee will now be led by Mr. Hoke. He reports that the Police and Fire departments still have great morale. Following the Governor’s latest guidelines, they will begin wearing masks when dealing with the public.
- C. Finance-Audit – Mr. Edwards reported that the first quarter financials look good. Mr. Edwards made a motion to accept the First Quarter Financials. This was seconded by Mr. Greenwood. The Clerk called the roll. Mr. Edwards, yes; Mr. Greenwood, yes; Mr. Hoke, yes; Mr. Havens, yes; Mrs. Middlestetter, yes; Mayor Schweller, yes. The motion passed 6-0.
- D. Community Affairs – Mrs. Middlestetter reported that the committee interviewed several candidates for the open seat on the Board of Zoning Appeals and Property Review Commission. They are recommending that Council appoint Glenn Costie. Mrs. Middlestetter made a motion to appoint Glenn Costie. Mr. Havens seconded the motion. The Clerk called the roll. Mrs. Middlestetter, yes; Mr. Havens, yes; Mr. Hoke, yes; Mr. Greenwood, yes; Mr. Edwards, yes; Mayor Schweller, yes. The motion passed 6-0.

COMMENTS

Mr. Greenwood stated that he is glad to live in Bellbrook. He encourages residents to support our local businesses.

Mr. Havens appreciates the Fire, Police, and Service Departments during this time. He also thanked Mrs. Dodd for all her work on the Memorandum of Understanding with the Parks District.

Mr. Hoke thanked the Council for the vote of confidence by appointing him. He reported speaking with Mr. Taylor and his hope is to do good things for the city and his wife and two small children.

Mrs. Middlestetter welcomed Mr. Hoke and thanks to the Departments, the City Manager, and the Clerk for everyone’s hard work.

Mr. Edwards echoed the words of thanks. He also recognizes the sacrifices individuals and businesses are making.

Mayor Schweller thanked the citizens for their compliance and understanding during this unprecedented time. He also thanked the City’s first responders for their professionalism and not missing a beat.

Mrs. Timmons the Clerk read an email that was received from Katherine Cyphers concerning the Highview walking path discussed during the City Manager’s report. Mrs. Cypher’s wanted to provide some clarification and corrections to the facts presented to Council. Her research included information from meeting minutes and email communications from previous city staff concerning the path. She shared her disappointment in the information provided. The information is attached to these minutes.

****Note:** Another email was sent to the City following this meeting with further corrections and clarification.

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ADJOURN

Being no further business to come before the Bellbrook City Council, Mayor Schweller declared the regular meeting adjourned at 8:30PM.

Michael W. Schweller, Mayor

Pamela Timmons, Clerk of Council

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PUBLIC COMMENT

Comments from Katherine Cyphers on April 27, 2020

Highview Terrace Path Communications listed in the Manager's report has incorrect information.

The current Record Plan was not recorded in 2016. The current record plan was signed and recorded 22 September 2017 following City approval of Resolution 2017-K on Feb13, 2017.

We located communication and maps from City Staff and City engineer in early 2016 which identified the proposed location of the path to the developer and his engineer. The developer's engineer did not identify a location until after the City Staff required it to be specifically identified for Council. Developer engineer stated location to be determined later at site work. City Staff provided identification based upon a 2015 revised preliminary plan and prior to utility site work.

The following are specifics from City emails and videos.

April 20, 2016 9:24 AM: Developer engineer email to City Staff and City Engineer. "The Planning Boards recommendations have been received and attached is our revised preliminary plan reflecting those comments." "Pedestrian access...Location to be determined at time of site work"

April 26, 2016 2:16pm: City Manager Mark Schlagheck email to developer and developer engineer: "staff met with the City's Engineer to review the proposed revisions: . Please identify a specific proposed path. Based on current lot configuration, likely need to be placed between lots 73&74 or 51&74.

May 5, 2016 9:11AM: developer engineer to City Manager "Access provided through lots 51&74". Between Lot 73&74 was never an option because there is a detention basin between lot 73&74

The research also indicated the revised preliminary plan and final record plan do not contain any lots owned by the HOA. All residential lots are privately owned.

The Staff should be providing accurate, correct, and reliable information. It's disappointing to continue to see inconsistencies and errors passed along to others.

From Katherine Cyphers on April 28, 2020

I watched the video of the meeting and find it necessary to clarify information.

Ms. Middlestetter was correct in her recollection of the various locations. There have been two walking paths in place prior to the development planning stages. The one in lot 50&51 was added in 2017.

There are two existing deeded easements with the City in the property donated to the City. Obtained from County recorder is attached easements. Property donated to City is lot 55, 38, and 15A.

From the County Recorded Plans:

1. Volume 889 page 640 walkway easement is located along the east side of Little SugarCreek Road.

It runs from 725 to Magee Park, It connects the Vineyards and Sable Ridge at Magee Park to downtown behind the guardrail. Deed dated 1994, specifically states walking & jogging purposes. It has been on all development plans. There is no bridge over the creek necessary with this easement because it runs along the road. This path is owned by the City for the City.

2. Volume 524 page 278 walkway easement located to the east side of the Little SugarCreek along wooded path.

It also runs from 725 to Magee Park. It can connect the Vineyards and Sable Ridge through Magee Park to downtown along the wooded path. Deed is dated 1975 and was with an old Church. This is the one in which a bridge or stepping stones could be necessary to cross the water at Magee if the path were maintained. This is also where Highview Terrace could connect to Magee park because lot 15A was added to City donated property. This path would be owned by the City for the City.

The location on lot 50&51 has not been around since 2005 for walking. There was an existing utility easement for stormwater, sewer & water systems that expanded with the revision due to utility construction requirements.

Attached is utility construction plans for this easement. The location is not a sidewalk or Common space area.

Someone mentioned lots being HOA owned. Lots 50&51 are not owned by the HOA, the lots are privately owned. Lot 51 is currently under construction; therefore no path can be completed because final grading cannot occur yet.

Currently, there is no active HOA and dues are only collected for mowing/maintenance of the sign area.

There are future plans to add a gate off River Birch that will be HOA maintained. Perhaps similar to the gate in Sable Ridge. There is no HOA Common space or HOA deeded lots in the development like there is in The Vineyards or the Landings.

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The developer did not approach Staff about installing a paved path last summer. The location is in the flood zone. Asphalt is considered toxic and not supposed to be used in wetlands near a creek. Asphalt would erode into the creek as the area floods. He approached Staff about the entire development for phase three roads and release of bonds. The intent had always been gravel chips/dust type. Yes, it will wash right into the stormwater system and creek bed as the erosion does now. The Developer will not be responsible for stormwater system when the development is complete. Neither is the HOA. I was informed by Greene County that the City is responsible for stormwater system upon completion. I'm not entirely certain if this is true. Someone will need to periodically clean out the debris that enters the two open storm drains at the bottom of the hill and the three open drains in lot 50. The attached record plan map with yellow highlights & handwriting came from the City Staff last year. I think ownership and locations get confused unless the maps and information on the record plans is available during discussions.