

**VILLAGE OF COMMERCIAL POINT
COUNCIL MEETING MINUTES
August 5, 2013**

Mayor Hammond called the meeting to order followed by the Pledge of Allegiance. Mayor Hammond then asked for a Moment of Silence to honor our Men and Women; Past and Present; for their Military Service to our Country. Fiscal Officer Hastings took roll call with the following members present: Mr. Thompson, Mr. Shelton, Mr. Cruz, Ms. Gooden-Kinney, Mr. Wissinger and Ms. Evans. Chief Jordan, Engineer Grosse and Solicitor Hess were also in attendance.

Ms. Gooden-Kinney made a motion, seconded by Mr. Shelton to approve the July 1, 2013 Regular Council Meeting Minutes. All members were in favor. The motion passed.

Mr. Shelton made a motion, seconded by Ms. Gooden-Kinney to approve the July 15, 2013 Public Hearing Minutes. All members were in favor with the exception of Mr. Cruz who abstained. The motion passed.

Mr. Wissinger made a motion, seconded by Ms. Evans to approve the July 15, 2013 Special Council Meeting Minutes. All members were in favor with the exception of Mr. Cruz who abstained. The motion passed.

Administrative Reports:

A. Mayor's Report – Mayor Hammond thanked the Go Kart Racing Foundation for a fun weekend. He said everything went well. Mayor Hammond also reported we have hired a new employee for the Utility Plant. Burgess Cline will be starting August 3, 2013.

B. Village Engineer's Report – Engineer Grosse handed Council a map showing the alleys that he recommends Council vacate. He said he is looking for some type of approval from Council to be able to move forward with this project. He said there would be legal fees as well as additional engineering fees involved. He said there are two pieces of Oak Alley that are being discussed. One being between Congress and Hickory and the other between North and Brown St. Engineer Grosse said the piece between Congress and Hickory Alley is unbuildable. There is a ravine that goes through there. When the town was platted, they did not take into effect the geographic features. There have been several alleys that have been abandoned throughout the years because they couldn't have been built or were in bad locations. Engineer Grosse feels this piece is one of those alleys. He continued to say that the piece between North and Brown Street has never been a completed or approved alley. He said if Council should decide to move forward with the abandonment, the Village will definitely keep an easement on that piece of property for utilities. He said to bring this piece of Oak Alley up to standards would be a very expensive project. Mr. Wissinger asked if the Village would have to maintain the easement or would that be the responsibility of the property owner. Engineer Grosse said what would happen is the property would be split down the middle and transferred to each adjacent property owner. Mr. Cruz asked who is responsible for the maintenance of the culvert going through that area. Engineer Grosse said if we abandon the alley, we can abandon the culvert too. It would be used only as a storm sewer. Engineer Grosse said this piece of storm sewer runs from the west end of the Village. We would be responsible for any repairs to the storm sewer. Mr. Shelton asked for clarification on if the culvert undermines and is damaged, the Village would be responsible because it is now part of our storm sewer. Engineer Grosse said that was correct. Engineer Grosse said abandoning an alley doesn't remove the responsibility of the upkeep of the storm drain. Mr. Cruz asked what the motivation was behind all of the sudden wanting to abandon the alley. Engineer Grosse said that several alleys have been abandoned throughout the Village before. This is one of those things that goes in cycles. This one happened to rise to the top of the list. He said it is a liability the way it is now. In an effort to eliminate liability for the Village, he feels it would be a smart move on Council's part to go ahead with this. He said from an engineering standpoint, it is a hazard and an area that needs to be fixed if Council so chooses to not abandon. Mr. Cruz asked why now? He said when we did our budget, there was no amount of money put in for this large of a project. Engineer Grosse said the piece between Congress and Hickory is not able to be repaired. He continued and said there had been a couple of issues with property owners on the north end of Oak Alley between North and Brown Street. Some were saying it wasn't an alley while others were saying it was an alley and they were going to be driving on it. These are the issues that brought it to the forefront and made it a Village concern. Ms. Gooden-Kinney said since we have to take care of the storm drain on that piece of property, why can't the Village decide to make half of the area in question an actual alley for the people who want and need to drive to get to the back of their homes. Engineer Grosse said problems would arise concerning driving on private property. Our regulations have certain restrictions as to what is needed to construct an alley. Engineer Grosse said either we make it an entire alley or

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we decide to vacate the alley. Not half and half. Mr. Shelton asked for clarification as to if Council chooses to leave this as an alley, they will be responsible for bringing it up to standards and spending a lot of money to do so. Engineer Grosse said if we were to open it up for driving, we would redo the culvert, put in all new base, tar and chip it or pave the alley. Mr. Shelton asked if the alley was abandoned, would there be any restrictions on someone parking on their own property. Engineer Grosse said if they were on the ends, it would be no problem. If you were the ones in the middle, you would have to have permission to cross over the neighbor's private property. The Village would not have anything to do with getting this permission. That would be between the property owners. As it stands now, you cannot drive over the culvert. Mr. Shelton asked how we can protect the culvert and stop someone from driving over it now. Engineer Grosse said that when the process is finished, suddenly you would be driving across private property without permission. Mayor Hammond asked if this was the last piece of alleyway that has not been abandoned. Engineer Grosse said it was as far as he knew without going to the courthouse and doing in depth research. These were the last two that were the obvious ones. Mr. Cruz asked about the one leading into Foxfire. Engineer Grosse said that one was vacated when the plat for that property was approved. Ms. Gooden-Kinney asked what kind of responsibility the Village has to the homeowner who purchased this land and was told she could have access to her back yard via this alley. Engineer Grosse said he was unaware that this was ever considered an alley. Solicitor Hess said he was unaware of any documentation that states this was an alley and was to be used as such. He said he hasn't found in any minutes of the Village meetings were this was put into writing for this resident telling her she could use this piece of property as an alley. He said the statute permits to abandon and then this property would become part of the adjacent property owner's property. Ms. Evans asked Engineer Grosse if there were any other issues with property owners surrounding the areas where other alleys were abandoned. Engineer Grosse said there were objections and the property was transferred. She then asked how many residents were effected. Engineer Grosse said there were 6. Ms. Evans feels that if the alley was abandoned, it would benefit the residents. Mr. Cruz said it would benefit the residents on the end. However, the one in the middle who purchased the property with the thought of getting to their back yard by ways of the alley, it does not benefit at all. Engineer Grosse said the "road closed" signs were put into place for safety purposes. Mayor Hammond said he and Chief Jordan inspected the alley and put the signs up for safety precautions. Mayor Hammond said there is no gravel base and has never been used as an alley. Ms. Gooden-Kinney said she remembered back in 2006 when she became part of Council, there were issues with people trying to drive on that alley. She thought it was vacated back then. Engineer Grosse said it was never vacated. Mr. Shelton asked for clarification on the price it would take to repair the culvert and make the alley way safe for traffic to travel on it. Engineer Grosse said a ballpark figure was \$ 40,000 to repair Oak Alley between North and Brown Streets. He said it would be more like \$ 100,000 to repair and build up the section between Congress and Hickory. He strongly recommends the closing of Oak Alley between Congress and Hickory. Solicitor Hess said a resident could bring legal action against the Village, requiring Council to maintain the alleys. He believes there are legal defenses to that argument, but it doesn't prevent someone from filing those actions. Ms. Gooden-Kinney said she would like to hear more from the residents that are affected by the proposed action of Council on this alley. Engineer Grosse said a public hearing is all part of the process and that would be a great time to listen to those concerns. He said at this point, they are just looking for direction from Council as to what they would like to see happen since there is money involved in legal and engineering fees.

Next, Engineer Grosse handed out a map of the proposed addition to the sidewalk project. Phase 1 and 2 have been completed. Phase 3 which is along Main Street from Congress south to the St. Rt. 762 intersection, is the next step. Engineer Grosse said the contractor is willing to hold the same price per foot as was in Phase 1 & 2. He said that piece of sidewalk is probably around a \$ 40,000 investment. He is looking for direction from Council as to move forward or put on hold. Mr. Cruz asked how much was budgeted for sidewalks this year. Fiscal Officer Hastings said \$ 75,000. Mayor Hammond said there was in excess of \$ 52,000 left in the budget between streets and sidewalks for the remaining of the year. He said Council could agree to move money around to allow for this project to move forward. Mr. Shelton asked how frequently this section of road was traveled. Mr. Cruz said he would like to hear that answer from our Police Department. Sergeant Murphy said this section was heavily traveled by school children and residents. Mr. Cruz asked Mr. Wissinger if the Street Committee was planning any additional work for this year where they would need the \$ 38,000+ that is left in the Street Fund. Mr. Wissinger said they were finished with street projects for this year. Mr. Shelton said if anything was going to be done on the repairs of the sections of Oak Alley, they

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probably wouldn't be done this year and would be budgeted for next year. Mr. Shelton asked what the next step for Council was if they wanted to move forward with this addition to the sidewalk project. Solicitor Hess said legislation would have to be passed to move money from streets to sidewalks and to enter into an agreement with the contractor. Engineer Grosse suggested having a Special Council Meeting before the next COW meeting so that we can get this project completed before the weather changes. Mr. Cruz asked Fiscal Officer Hastings to check and see if the money in the State Highway Fund could be used for sidewalks along the state highway.

Next, Engineer Grosse said he has two contractors looking at the storm drain project on Front Street. He is trying to get one more quote as well. He is hoping to have price information for Council at the COW meeting.

Next, Engineer Grosse handed plan for a tentative layout for the "Gathering Place" in the center of the Village. He said this is the second step in trying to improve the "downtown area" of the Village. Engineer Grosse explained the diagram shows a circular layout with a gazebo in the middle. Curbs would be placed along the side streets. The gazebo would be raised and placed in the center. Engineer Grosse said this project with curbs and sidewalks and no gazebo would cost between \$ 45,000 - \$ 50,000. With the gazebo, an additional \$ 15,000 - \$ 70,000 would be needed depending on what style and quality of gazebo was being used. Engineer Grosse said he has been talking to a couple of developers in the area and they are willing to give us the dirt for free as well as do the grade work to create the mound. Ms. Gooden-Kinney asked about the current driveway to the Police garage. Engineer Grosse said we would do away with the current driveway and create a new one coming in off of Front Street. Mr. Cruz asked if all of this was included in the \$ 50,000 cost. Engineer Grosse said a new door on the police garage would be extra, but everything else is included. Engineer Grosse said if he was going to give a budget number to get this entire project completed, he would like to see \$ 80,000 - \$ 85,000 in the budget. Mr. Thompson feels \$ 80,000 is too much to spend. Ms. Evans suggested taking the free dirt while it is available. Mr. Cruz asked what the cost would be for the first phase of dirt, trees, grading and grass seed would cost. Engineer Grosse said around \$ 15,000. He is figuring the sidewalks and curbing are around \$ 35,000. Mr. Cruz feels if we start with the first phase, it will at least get the area cleaned up and Council will have more time to figure out what direction they want to go from there. Fiscal Officer Hastings informed Council there was \$ 9,000 in the budget left for the "Gathering Place". Engineer Grosse recommended getting the dirt and grading work done since it was free, and at least get the grass seed planted. Solicitor Hess said as long as the dirt and grading are free, no legislation is needed. If the contractor is going to charge us for the excavating work, then we would need to pass a resolution. Mr. Thompson was concerned with the use of this area during the go kart races. He said a contract was signed with the Foundation and doesn't want to disrupt this document. Mr. Shelton said this is an improvement for the area and thinks it will only make it better for that specific weekend. Mr. Cruz agreed that this would be an improvement for the location of the concert that happens the Friday night of the races. Engineer Grosse said he will move forward with phase 1.

Next, Engineer Grosse handed out a copy of a plat of Walker Point Phase 3 showing the existing walk path. He pointed out property lines along the path. He is looking for direction from Council on the placement of a split rail fence that has been requested by the neighboring property owner. He said the path is 6'-10' off the property line. The proposed price was less than \$ 3,000. Engineer Grosse's main concern is he doesn't want to set a precedence. He said eventually we will be installing more walk paths throughout the Village. He said if the fence is put into place to stop someone from crossing onto private property, a split rail fence will not work. Mr. Shelton said the Village erected a fence along the entrance to West Scioto Green for safety purposes. He feels he had to put up his own fence around his yard to keep people out, why should this be any different. Mr. Thompson made a motion, seconded by Mr. Cruz to install the split rail fence from the Scioto Township Fire Department back to Edmonds Drive along the walk path. Ms. Evans wanted to clarify this is for one property owner. A roll call vote was taken: Ms. Gooden-Kinney – Yes, Mr. Thompson – No, Mr. Cruz – No, Ms. Evans – No, Mr. Shelton – No, Mr. Wissinger – No. The motion failed.

Next, Engineer Grosse informed Council there had been several meetings with the property owner just north of the utility plant. They have asked us to come back with several things which we are in the process of doing including comparing rates between the Village and the City of Columbus for water and sewer. Engineer Grosse said he is also looking at other options for the location of new well fields. He said as the Village continues to grow, we need to be prepared for the water demand.

Finally, Engineer Grosse said he had spoken with a few contractor about getting quotes on cleaning some of the ditches in the Village. The north end of West Scioto Green, from WSG to the men's club

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property, east side of Main Street to Front Street are the main ditches that will need to be cleaned out. Engineer Grosse is working on getting quotes. He said he would like to get this work on a schedule where we are mowing these ditches 1 or 2 times a year and cleaning them out once every two years. Ms. Gooden-Kinney asked about the standing water. Engineer Grosse feels the cleaning out of the ditches will resolve that issue.

C. Village Solicitor's Report – Solicitor Hess said he appreciated everyone's attendance and participation during the Public Hearing that was held early tonight. He said there was one concern regarding the legal fees in the proposed contract. He said that he had spoken with Counsel for the Township and they would be willing to discuss covering the legal expenses if they arise, however there is no agreement at this time. When the voting occurs, it will be on the contract as it stands now. At this time, Mr. Shelton asked Solicitor Hess about the resident we have with a "roommate wanted" sign on his property. Mr. Shelton continued with clarifying that a single family resident with one boarder was ok in the Village as long as they were not housing a bed and breakfast type of establishment. Solicitor Hess said that was correct. Mr. Shelton questioned how the Village would know or be able to track if we are collecting any of the income tax money that is due for living in the Village. Solicitor Hess said he is unaware of any method of recognizing or enforcing these residents to make sure they are paying their share of taxes. Mr. Cruz said in addition to Mr. Shelton's statement, what if the property owner doesn't reside at the home and everyone who is living on the property is a renter. Solicitor Hess said as he read the statute, it was an owner occupied home. If this is a situation where there are more than 3 different individuals renting rooms in this home, then it is in violation of our rules.

D. Police Department Report – On file at the Municipal Office.

E. Village Administrator's Report – Nothing to report

F. Fiscal Officer's Report – Fiscal Officer Hastings gave the following report: Fund Balance's as of July 31, 2013 – General Fund - \$ 724,489.81, Street Construction Main & Repair - \$ 159,570.21, State Highway - \$ 17,072.82, Parks and Rec - \$ 3,875.00, Permissive Motor Vehicle - \$ 7,481.98, Housing Development - \$ 14,956.07, Water Operating - \$ 1,392,584.52, Sewer Operating - \$ 1,152,529.20, Garbage Operating - \$ 14,078.23.

Legislative Reports

A. Legislative Authority Reports

1. Vidal Cruz – Nothing to report

2. Nicole Evans – Nothing to report

3. Kimberly Gooden-Kinney – Ms. Gooden-Kinney thanked Solicitor Hess for clarification on the JEDD contract. She understood that the Village of Commercial Point was not covered for legal fees per the contract. Solicitor Hess corrected her and said the Village was covered per the contract as written. The Village would be covered for 1 year after the contract went into effect. Ms. Gooden-Kinney asked what the next step would be to make sure the Village was covered for any legal action that may come about. Solicitor Hess said that he could sit down with Mr. Don Brosius, Legal Counsel for the Township, and see what additional agreement can be made. He pointed out that no additions could be added or no changes could be done to the proposed JEDD contract. Ms. Gooden-Kinney asked the rest of Council what they would like to do in this matter. She asked if they would like for Solicitor Hess to contact Mr. Brosius and see what additional agreement could be made. Mr. Mike Struckman asked if the Village's insurance policy would cover any legal actions once the one year term was over. Solicitor Hess wasn't sure and didn't want to comment at this time without checking first. Mr. Struckman asked Solicitor Hess if there were any threats of lawsuits at this time. Solicitor Hess said no but hearing the comments that have been made during the public hearings, he said there could be possible litigation forthcoming. Mr. Cruz called a point of order and said we were not on the topic of the JEDD at this time and needed to get back to the Legislative Reports. Next, Ms. Gooden-Kinney asked Mr. Cruz if he had notified anyone of his being absent at the last COW meeting. He said no. Ms. Gooden-Kinney said that she had received multiple concerns about his absences for this year, and as President of Council, she put him on order of inappropriate absences for not contacting someone that he wasn't going to be in attendance. Mr. Cruz thanked Ms. Gooden-Kinney.

4. Jason Thompson – Nothing to report

5. Randy Shelton – Nothing to report

6. Clarence Wissinger – Nothing to report

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At this time, Mayor Hammond opened the meeting for Citizens Comments.

Mr. Scott O'Neil asked if the percentage in the JEDD contract was incorrect, did the Village have to start the procedure all over again. Mayor Hammond said he didn't know if it was incorrect. Mr. O'Neil said he wasn't saying it was right or wrong, just asking if it is incorrect, would the Village have to start over. Solicitor Hess said there is a percentage in the contract that has been passed by the Scioto Township Trustees and Grove City and that is what is listed on the proposed contract. He said the contract is not incorrect so there would be nothing to start over on. Mr. O'Neil pointed out that Grove City's rate is 2% but our contract says 2 ¼%. Solicitor Hess said that is what has been agreed upon. Mr. Brian Liff informed Council that Grove City has not passed their legislation as of yet. Solicitor Hess said he would look into the situation. Mr. O'Neil asked if a first reading was still allowed this evening. Solicitor Hess said this is a first reading of the contract as proposed, so yes the first reading can still happen. Another item Mr. O'Neil brought up was the cleaning out of the ditches that was discussed earlier. He feels the ditch at Walker Point is in worse shape than the ditches Engineer Grosse is proposing to get cleaned out. Engineer Grosse said the consensus of residents at Walker Point was to not cut down trees or clean out the ditch. Engineer Grosse asked Mr. O'Neil to get signed documentation that the residents would like to see it cleaned up and we can move forward from there. Mr. O'Neil continued with his concerns on the cleanup of the retention ponds at Walker Point. He questioned Mayor Hammond on why he didn't talk to Zoning Inspector Griesenbrock on this project like he said he would. Mayor Hammond apologized and said he didn't remember that he was to speak with Mr. Griesenbrock regarding the pond. He said he had talked to Mr. Griesenbrock regarding the walk path only. Mr. O'Neil feels the ponds need to be maintained. Engineer Grosse, Zoning Inspector Griesenbrock and Mayor Hammond will look into the issue. Mr. O'Neil asked for some type of mosquito repellent, possibly tablets of some sort, be placed around the ponds. Mayor Hammond and Engineer Grosse will look into.

Mr. Struckman informed Council that if the Township Trustees were going to continue to plow the streets for the Village, there were some trees that needed to be trimmed back from the curbs. These areas would include Walker Point and Foxfire. Mr. Struckman continued with information regarding the proposed JEDD contract. He said on page 12 of the document, the 2.25% that is listed is an administrative fee that is charged by RITA. Mayor Hammond asked for clarification from Solicitor Hess that is what the intent was. Solicitor Hess said he was reading the document that was in front of him and could not comment for sure without researching the situation. Mr. Brian Liff said that page 13 documents a 2% administrative fee, while page 12 states 2 ¼% as the percentage of tax being withheld from the taxpayer.

Mr. Brian Liff wanted to respond to a few comments that were made earlier. He said the comment was made that the Mt. Sterling Fire Department was a volunteer department. He said that was not true. They have 11 full time fire/ems employees and is not strictly a volunteer department. He also said he spoke with the Sheriff's office regarding use of the proposed 911 call center. He said the Sheriff was very adamant about staying in control of the 911 call center. Mr. Liff feels if you are taking private party funds and trying to buy-out the Sheriff's office, you have now created a conflict of interest and would make everyone look bad. Mr. Liff pointed out what he feels are discrepancies (Sections 7 & 8) in the proposed JEDD contract as well as section 15 where Council has voiced some concerns. He asked Council if they do decide to vote tonight, that they vote on the contract in all of its errors and omissions, as it stands.

Legislation for First Reading:

Resolution 12-2013 – A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A JOINT ECONOMIC DEVELOPMENT DISTRICT CONTRACT BY AND BETWEEN THE TOWNSHIP OF SCIOTO, THE CITY OF GROVE CITY AND THE VILLAGE OF COMMERCIAL POINT. Mayor Hammond read title only.

Resolution 13-2013 - A RESOLUTION CONSENTING TO THE INCLUSION OF PROPERTY WITHIN THE SCIOTO TOWNSHIP JOINT ECONOMIC DEVELOPMENT DISTRICT AND AUTHORIZING THE MAYOR TO SIGN A PETITION FOR THE APPROVAL AND CREATION OF SAID DISTRICT. Mayor Hammond read title only.

At this time, Mr. Thompson asked how much money has been spent on the JEDD. Mayor Hammond said approximately \$ 10,000 that was mostly spent in 2012. Mr. Thompson asked if Council would be reimbursed for these expenses. Mayor Hammond said that was never discussed and no we will not be reimbursed. Mayor Hammond continued in saying in his personnel opinion, this has taken an awful lot of time. It should have been passed and in place or rejected months ago. He is not happy with the amount of time, energy and resources that Council has put into this. He feels this needs to come to a conclusion soon. He said we have heard a lot of things from a lot of people. He

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understands there are two sides to everything. He feels Council's position to the Village is very simple. He feels Council is going to agree or disagree to be a part of this JEDD and are 14 months into this decision. He said Council's responsibility is to the citizens and residents of this Village. He said this needs to come to a vote soon so that the Township Trustees can move forward with whatever they need to do. Mr. Thompson clarified that the delays have been with legal issues with the contract, not Council holding things up. Mayor Hammond said that was correct and he was in no way badgering Council.

Mr. Shelton made a motion, seconded by Mr. Thompson to adjourn the meeting. All members were in favor. The meeting adjourned.

Joe Hammond, Mayor

Wendy L Hastings, Fiscal Officer