

NEW PHILADELPHIA CITY COUNCIL MET IN REGULAR SESSION IN COUNCIL CHAMBERS ON AUGUST 12, 2024 WITH PRESIDENT DON KEMP PRESIDING. COUNCILMAN RIPPETH OFFERED A PRAYER, AND ALL IN ATTENDANCE RECITED THE PLEDGE OF ALLEGIANCE.

COUNCIL MEMBERS IN ATTENDANCE

MR. KRIS KREINBIHL
MR. DAN LANZER
MR. MITCH PACE
MRS. CHERYL RAMOS
MR. STEVE RIPPETH
MR. TOM SIMMELINK
MR. MICHAEL WALKER

EXCUSED ABSENCES: NONE

- MR. KREINBIHL MOTIONED TO APPROVE TONIGHT’S AGENDA
MRS. RAMOS SECONDED THE MOTION
7 YEAS
TONIGHT’S AGENDA HAS BEEN APPROVED

- MR. LANZER MOTIONED TO APPROVE THE MINUTES FROM THE REGULAR SESSION OF COUNCIL ON JULY 22, 2024
MRS. RAMOS SECONDED THE MOTION
6 YEAS, MR. PACE ABSTAINED
MINUTES FROM THE JULY 22, 2024 REGULAR COUNCIL MEETING HAVE BEEN APPROVED

CORRESPONDENCE..... CLERK, JULIE COURTRIGHT

1. *To President of Council and Council Clerk from Executive Administrative Assistant to the Mayor Jami Bailey, dated July 25, 2024. This is an email titled Gas Aggregation Presentation September 9th. Ms. Bailey states in the email “Our Aggregation Contract with Constellation New Energy expires in November and they will not be renewing any of their Ohio contracts. We will need to shop for a new gas aggregation provider.*
2. *To Council and Administration from Auditor Heather Denham, dated July 23, 2024. This is a forwarded email titled “Data Collection Form Ready for Certification”.*
3. *To Council Clerk from Councilwoman Ramos, dated July 30, 2024. This is a forwarded email from City Resident Robert Cleary stating his opposition to DORA.*
4. *To Council Clerk from Councilwoman Ramos, dated July 30, 2024. This is a forwarded email from Resident Rick Hoffman stating his opposition to DORA.*
5. *To Council Clerk from Councilwoman Ramos, dated July 30, 2024. This is an email with a petition signed by City Residents who oppose DORA. Mrs. Ramos states in the email that the petition contains 405 signatures.*
6. *To Council and Administration from Income Tax Administrator Carly Loos, dated July 31, 2024. This is the July 2024 Report.*
7. *To Council and Administration from Executive Administrative Assistant to the Mayor Jami Bailey, dated August 2, 2024. This is the July Month End Report.*
8. *To Council and Administration from Councilwoman Ramos, dated August 2, 2024. This is an email titled “Copies of Petition Signatures I Mentioned”.*

9. *To Council Clerk from Paul Beitzel, a City Resident who lives on Crooked Run Road, dated August 7, 2024. This is a letter in opposition of DORA.*
10. *To Council and Administration from Administrative Assistant to the Auditor Dannielle DeMattio, dated August 9, 2024. This is an email titled "July 2024 Month-End Reports." With attachments: The Statement of Cash Position With Month to Date Totals, the Expense Report With Encumbrance Details, and the Detailed Trial Balance.*
11. *To Council and Administration from Law Director Fete, dated August 10, 2024. This is an email titled Supreme Court Homeless Memorandum.*
12. *To Council Clerk from Treasurer Gerber, dated August 12, 2024. This is the City of New Philadelphia Investment and Savings Report for July 2024.*
13. *To Council and Administration from Mayor Day, dated August 12, 2024. The Mayor's Report.*

14. MAYOR'S REPORT/REQUESTS ...MAYOR JOEL B. DAY
 Mayor Day had the following report:

Construction of the Bike Trail from the KSU-Tusc Campus Is Underway

When you're traveling on East High Avenue from 2nd Street NE to the KSU-Tusc Campus, be aware of construction crews and equipment building the bicycle trail from the campus to downtown. We began planning for the \$2.88 million KSU-Tusc Connector Trail project in 2019 and received the bulk of its funding from an OMEGA RTPO grant and a Transportation Alternative Program (TAP) grant from the Ohio Department of Transportation. The City's share was \$361,000 to pay for new sewer catch basins and paving. Once it's completed this fall, the 1.6-mile trail will give bicyclists a safer pathway to and from the campus area. This is a main artery in the City's Bicycle and Pedestrian Connectivity Plan. That plan calls for future connections to bike trails on State Route 416, the Ohio and Erie Canal Towpath Trail and the Roswell Trail, which should be under construction in the summer of 2025.

EDFA Issues a New RFP to Attract Developers to the Former Joy/Howden Site

The County's Economic Development and Finance Alliance (port authority) has issued a new Request for Proposal to attract developers to the former Joy/Howden Buffalo property on South Broadway. You can find the RFP on the City's website here: http://www.newphilaoh.com/downloads/files/RFP_for_Howden-Buffalo_Property_-_2024.pdf

In the document, the EDFA states: "The RFP asks developers to submit an overall plan for the site and anchor tenants to submit their needs and express a commitment to participate in multi-use development at the site." The new zoning code that Council will soon consider calls for the property to be rezoned for mixed uses as an extension of the downtown Central Business District. It's my hope that one of the included uses is much needed housing.

The City Takes Delivery of a New Vacall Street Sweeper

This past Friday, I visited the Gradall plant to take delivery of the City's new Vacall Street Sweeper. It replaces the Vacall sweeper the City purchased in 2010. The new sweeper has a number of technological and equipment upgrades that allow the vehicle to do a better, more efficient job of cleaning city streets. A Gradall factory rep will be at the General Services garage tomorrow (Tuesday) to train operators on the vehicle. Council adopted Resolution 8-2024 earlier this year that authorized the purchase of the new street sweeper using a \$333,832.82, 84-month loan from First Federal Community Bank.

A New Member Has Been Appointed to the City's Cemetery Board

I have appointed New Philadelphia resident Bud Winn to fill a vacancy on the City's Cemetery Board. Mr. Winn is a retired educator who has been an active participant in the "Find a Grave" website. His membership profile can be found here: <https://www.findagrave.com/user/profile/47466699>. He replaces former City Cemetery Superintendent Jim Exley, who retired from the board after serving as a member since 2016.

**Kevin Mulligan and Lacie Felix gave an update on the City's Civil Service Commission.*

Mr. Pace thanked Mr. Mulligan and Ms. Felix for their hard work.

Mayor Day thanked Mr. Mulligan and Ms. Felix for bringing clarity to the City's Civil Service Commission.

Mr. Popham thanked Mr. Mulligan and Ms. Felix for their work.

Mr. Rippeth had the following question for Mayor Day:
Has there been any consideration given to extending bike lanes down University Drive?

Mayor Day:
Not with this project but that's something we can plan for in the future.

SERVICE DIRECTOR..... Service Director Ron McAbier:

Mr. McAbier had the following report:

I want to start by giving an update on the stadium. Surprisingly they met the deadline. There are some very minor things that they have to do there. The park also wrapped up since the last meeting. They have some hydroseeding that they have to do in the fall that didn't take in the 80 degree weather. The bike lane project and storm sewer project have both kicked off. The Franklin Square Project, leading from there to 4th Drive we already have the 5-foot line in. Right now we're lowering the sanitary sewer line so we can put the pipe in. They spent over a day tying in the storm sewer manhole and the sanitary manhole. The bike lane also started. Both those projects have an end date of October 31st. The bike lane is getting paved in town. There will be another gas line project from Logan Ave. to Shiloh to Emmet. It will also go from Logan to Union. That's supposed to start the middle of next month. Once I get a better date on that I'll report it at the next Council meeting.

Mr. Pace had the following question:
The crosswalk lights for the park should be coming up soon, shouldn't it?

Mr. McAbier had the following reply:
It will definitely take place this year.

Mr. Pace:
There was a house on Front Ave. that was a hoarding situation and it is being cleaned up.

Mrs. Ramos:
The work on the Northwest section, you said that was a gas line?

Mr. McAbier:
Yes.

AUDITORMRS. HEATHER DENHAM.....NO REPORT

SAFETY DIRECTORMR. GREG POPHAM

Mr. Popham had the following question:
About a week ago in the Fire Department, the fire department along with several other departments had applied for a regional FEMA Grant. They were awarded the grant. The amount that New Phila will get is \$117,000 to replace all the hoses on all the trucks. Our portion of that is 10%.

TREASURER . . . MR. TOM GERBER
Mr. Gerber had the following report:

I submitted a July report to the Clerk of Council. So far this year we have gained \$140,000 in investments and savings.

LAW DIRECTOR.....MR. MARVIN FETE

Mr. Fete had the following comment:

What I'd like to address tonight is the memorandum I did about for the city of Grant's Pass vs. Johnson. It's a landmark Supreme Court Decision. One of the things that I really find fascinating is that conservative justices tend to draw what's called "Bright Line Standards" and do not legislate from the bench and trust the people at the local level to make those decisions, or your elected officials at least. There were several landmark cases that came out this past session. The city of Grant's Pass one specifically addresses us. I did want to address what the Auditor had sent me about an Opioid settlement with Kroger. I haven't researched that yet. I don't recall us agreeing to that. I do know that that's pertinent because of another Supreme Court decision. We had entered into an agreement with the State regarding the Purdue Pharma Settlement. The Supreme Court agreed with President Biden on this. In Tuscarawas County we rank 18th in drug overdose mortality rates. Purdue Pharma filed for bankruptcy and the family tried to have themselves sheltered by not filing for personal bankruptcy in that case. There was a huge seven-billion-dollar settlement and the Supreme Court ruled that the Sackler family cannot be immune from the suit unless they file personal bankruptcy themselves. Well, they don't want to do that because the court gets to go in and look at all their finances and where there money is and start controlling it and dividing up how much of that's going to the public. The Supreme Court actually stepped in and stopped that settlement because the purpose of the bankruptcy law was not to shelter individuals who have not filed for bankruptcy. That goes along with what I like about conservative justices applying common sense approaches and not legislating from the bench. They would have had to legislate from the bench in that instance by saying that they're the owner of the corporation and they don't want to file personal bankruptcy, and they caused the death of millions of people across the country.

That brings me to the Grant's Pass case and they did a similar thing because if you look at what past precedent was, which was done by a much more liberal activist court. When it came to regulating issues of homelessness in your own community, and issues of trespass and problems associated with that. The precedent for years was out of the 9th Circuit Court of Appeals. Prior to the City of Grant's Pass vs. Johnson which was just decided this past summer, the law was that is was considered cruel and unusual punishment under the 8th amendment to enforce any type of restrictions on public camping and therefore homeless local policies unless, the first ruling that they had on that was Martin vs. Boise in 2019. In that case the 9th Circuit Court of Appeals ruled that you can't enforce those types of Ordinances unless the amount of homeless individuals exceeded the practical available beds for homeless shelters in that area, which means you would have to count the number of homeless people before you could issue a citation for trespass and go count the number of beds and make sure they were equal. Then, when the Grant's Pass case came up they ruled that you could not enforce a ban on camping in nearby local homeless regulations unless the city had enough shelter beds for its entire population. So, we would have to have enough shelter beds for about 18,000 people before we could keep somebody from setting up camp on one of our baseball fields. A group of homeless individuals filed a class action lawsuit barring cruel and unusual punishment. The Supreme Court ruled that wasn't a violation of the cruel and unusual punishment law because its very minimum. The first thing is your order to move. You could be cited and fined. It's a minimum fine, it's a minor misdemeanor. If you were a repeat offender you could be barred from the park. If you violated that order you could be subject to a trespass order. The Grant's Pass law was done be people who wanted to get people off the street and into shelters, so this was a pro-homeless group and pro-homeless legislation that was done to protect individuals not to punish them. I was really glad to see the Supreme Court took a common sense approach and said we're going to trust the city of Grant's Pass as well as all the other municipalities across the country to determine how best to help the homeless people in their own communities. On that basis for everybody to observe I included the entire sections of the Grant's Pass local ordinances that were found to be constitutional. This is based on my analysis that if the city wanted to adopt something very similar here we already have the loitering ordinance that we passed. That does not specifically address what is going on in our parks though. What the city of Grant's Pass did is they prohibited camping and they defined it in doorways, alleyways, public sidewalks, things of that nature. They applied it to the whole city. In their park section they said that camping is also prohibited there, then it referenced back to the larger section regarding the whole city. So if Council is willing to consider something like that I'd be happy to guide you through it and draft legislation to that effect. I think this is badly needed in our park system. Even without it though I think that we're on pretty good ground if we asked someone to remove themselves from camping in light of the ruling in the Supreme Court. You can't be in the park after dusk, so clearly no one should be

sleeping there overnight as it is. I have instructed the police chief how to operate and how to enforce those things. If we want to be more specific certainly the city of Grant's Pass ordinances have given us a bright line standard from which to view that.

Mr. Pace had the following comment:

I think we should apply ordinances similar to what Grant's Pass has to the entire City.

President Kemp asked Mr. Pace to take this issue into his Committee.

Mr. Fete continued:

I would also like to request an Executive Session tonight to discuss potential litigation.

MR. PACE MOTIONED FOR AN EXECUTIVE SESSION DURING TONIGHT'S MEETING

MR. WALKER SECONDED THE MOTION

7 YEAS

COUNCIL WILL GO INTO EXECUTIVE SESSION AFTER THE LEGISLATIVE AGENDA

BOARD/COMMISSION REPORTS:

PLANNING COMMISSION.....MAYOR JOEL DAY

The Planning Commission will be meeting here in Council Chambers tomorrow at 1:00 PM.

We will be focusing on the new Zoning Map that Wendy Moehler with Compass Point Planning Has drawn for us.

BOARD OF ZONING APPEALS.....MR. RON MCABIER

The Board of Zoning Appeals will be meeting tomorrow night at 5:00 PM in Council Chambers with One variance request to be heard at that time.

AIRPORT COMMISSION.....MR. DAN LANZER

The Airport Commission will be meeting at 6:00 PM tomorrow evening at the Airport Meeting Room at Harry Clever Field.

PARK BOARD.....MR. MITCH PACE

The Park Board will be meeting next Wednesday at noon at Tuscora Park.

CEMETERY BOARD.....MR. MITCH PACE.....NO REPORT

HEALTH BOARD MR. TOM SIMMELINK
The Health Board will be meeting Wednesday at noon in City Council Chambers.

STANDING COMMITTEE REPORTS:

FINANCE COMMITTEEMR. STEVE RIPPETH.....NO REPORT

Mr. Rippeth had the following request:

I would like to schedule a meeting next Monday at 6:45 for our Committee to take Ordinance 23-2024 under consideration.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT COMMITTEE...MR. DAN LANZER

Mr. Lanzer had the following report:

The Public Works and Economic Development Committee met this evening at 7:00 PM. We had one item to discuss. It was more of an informational meeting about the Airport Restaurant and the lease.

SAFETY, HEALTH, AND SERVICE COMMITTEE.....MR. TOM SIMMELINK.....NO REPORT

ZONING AND ANNEXATION COMMITTEE.....MRS. CHERYL RAMOS.....NO REPORT

SALARY COMMITTEE.....NO REPORT.....MR. KRIS KREINBIHL....NO REPORT

PARKS AND CEMETERY COMMITTEE.....MR. MITCH PACE

Mr. Pace had the following report:

The Cemetery Committee met last week and we did not have a quorum. Mr. Bud Winn is taking a spot on the Cemetery Board.

SPECIAL AND CONTACT COMMITTEE.....MR. MIKE WALKER.....NO REPORT

VISITOR'S COMMENTSNONE

Council CommentsNONE

READING OF ORDINANCES AND RESOLUTIONS

ORDINANCES:

21-2024 AN ORDINANCE BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO, TO INCREASE ALL SANITATION ACCOUNTS BY THREE DOLLARS (\$3.00) PER MONTH, SANITATION ACCOUNT BILLS MAILED IN THE MONTH OF NOVEMBER 2024 SHALL REFLECT THE RATE INCREASE

2nd Reading

24-2024 AN ORDINANCE TO APPROVE, ADOPT, AND ENACT THE CURRENT REPLACEMENT PAGES TO THE CODIFIED ORDINANCES AND DECLARING AN EMERGENCY

2nd Reading

RESOLUTIONS: NONE

Council adjourned into a 3 minute recess at 8:17pm before going into an Executive Session which started at 8:20pm. Council reconvened into Regular Session at 9:19pm.

UNFINISHED OR OLD BUSINESS:

Mr. McAbier had the following comment:

If everybody looks at Wabash Ave. between Bowers and Union that's closed. The new building there is tied into the storm sewer, which is approximately 12 feet deep. Tucson Construction is doing that job. It should be finished by the end of the work day tomorrow.

Mr. Fete had the following question for Mr. McAbier:

What's going on at the intersection of Front St. and 4th?

Mr. McAbier:

It's the Storm Sewer project.

NEW BUSINESS:

President Kemp:

Don't forget next Monday we have a meeting of Committee of the Whole at 7:00 with a Finance Committee Meeting at 6:45.

With no other business to discuss Mr. Lanzer motioned to adjourn at 9:21 PM.

CLERK OF COUNCIL _____
Julie Courtright

APPROVED _____

PRESIDENT OF COUNCIL _____
Don Kemp