

# City of Trotwood

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Trotwood, Ohio 45426  
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[www.trotwood.org](http://www.trotwood.org)



## Meeting Minutes

**Wednesday, October 14, 2020**

**6:00 PM**

**Trotwood Community and Cultural Arts Center**

### **Special Meeting**

*Mayor Mary A. McDonald*  
*Vice Mayor Tyna R. Brown*  
*Council Member Charles Ron Vaughn*  
*Council Member Rhonda C. Finley*  
*Council Member Robert L. Kelley, Jr.*  
*Council Member Yvette Page*  
*Council Member Bettye L. Gales*  
*Clerk of Council Kara B. Landis*

**VISITORS AND COMMUNICATIONS:** Due to COVID-19, this will be a virtual meeting. Please visit the City's website, [www.trotwood.org](http://www.trotwood.org), for details on how to view the Council Meeting. Questions or comments may be submitted to the Clerk of Council no later than 4:00 p.m. on Wednesday, October 14, 2020.

**I. Call to Order: Mayor Mary A. McDonald**

Mayor McDonald called the meeting to order at 6:00 p.m.

**II. Pledge of Allegiance**

**III. Roll Call: Clerk of Council**

Clerk Landis took Roll Call.

**Present** 7 - Mayor Mary A. McDonald, Vice Mayor Tyna R. Brown, Councilmember Bettye L. Gales, Councilmember Charles Ron Vaughn, Councilmember Rhonda C. Finley, Councilmember Robert L. Kelley Jr., and Councilmember Yvette Page

**Staff Members Present:** Law Director Steve McHugh, Deputy City Manager Stephanie Kellum, Clerk of Council Kara Landis, Planning and Development Director Jung-Han Chen, Chief Erik Wilson, Interim Captain Brent Rasor, and Chief Richard Haacke.

**Visitors Present:** Clayton Mayor Mike Stevens, Clayton Councilmember Kenny Henning, Clayton Law Director Martina Dillon, Clayton City Manager Amanda Zimmerlin, Clayton Public Services Director Randy Sanders, Clayton Police Chief Matt Hamlin, Joseph Heintz, Pam Heintz, Jon Fugate, Jessica Fugate, Phonda Gamble, Bill Carr, Brenda Carr, Melissa Elworth, Andrew Madewell, Jennifer Kuebel, Kayli Morales, Tasha Phipps, Robert Hibbard, Melissa Hibbard, Brenda Bowser, and Patty Woodruff.

**IV. Motion to Approve the Agenda**

Mayor McDonald requested a Motion on this item. A Motion was made by Councilmember Gales, seconded by Vice Mayor Brown, to Approve the Agenda. The Motion carried by the following vote:

**Aye:** 7 - Mayor McDonald, Vice Mayor Brown, Councilmember Gales, Councilmember Vaughn, Councilmember Finley, Councilmember Kelley Jr. and Councilmember Page

Mayor McDonald asked City of Trotwood Law Director Steve McHugh to review the process for the Public Hearing.

Mr. McHugh explained that the City of Clayton has filed a Petition for Appeal regarding the decision of the Trotwood Board of Zoning Appeals ("BZA") in Case #20-07. Per the City's Charter, a Public Hearing is required to be held before Council. Mr. Jung-Han Chen, Planning and Development Director for the City of Trotwood, will present the ground work in this case. Next, Clayton will present their case and then Mr. and Mrs. Heintz will present their case. Upon completion of that portion, Trotwood Police Chief Erik Wilson and Deputy City Manager Stephanie Kellum will make remarks. Next, there will be an opportunity for public comments. Thereafter, the evidentiary phase will conclude and Council will close the Public Hearing. All speakers will be sworn in. Council will deliberate pursuant to the City Charter, Section 7.2. After deliberations, Council will decide to either affirm, reverse, or modify the BZA decision. This will require a Motion and must pass by a majority vote. If the Motion does not pass, there will be further deliberation until a Motion passes. Once passed, Council's decision will be documented and finalized at the next Regular City Council Meeting in November.

#### V. Motion to Open the Public Hearing

Mayor McDonald requested a Motion on this item. A Motion was made by Vice Mayor Brown, seconded by Councilmember Gales, to open the Public Hearing. The Motion carried by the following vote:

**Aye:** 7 - Mayor McDonald, Vice Mayor Brown, Councilmember Gales, Councilmember Vaughn, Councilmember Finley, Councilmember Kelley Jr. and Councilmember Page

Mayor McDonald advised that anyone registered to speak during the Public Hearing must stand so she can swear them in. Mayor McDonald administered an Oath to all those standing.

#### VI. Public Hearings

##### [20-21](#)

A DECISION BY THE TROTWOOD CITY COUNCIL REVERSING THE DECISION OF THE TROTWOOD BOARD OF ZONING APPEALS IN CASE 20-07 BY A VOTE OF FIVE (5) AYES TO TWO (2) NAYS AT A SPECIAL MEETING HELD ON WEDNESDAY, OCTOBER 14, 2020, AT THE TROTWOOD COMMUNITY AND CULTURAL ARTS CENTER.

**Attachments:** [Decision](#)

[PN20-21 Proof of Publication](#)

Mayor McDonald asked Deputy City Manager Stephanie Kellum to review the issue. Deputy City Manager Kellum introduced Planning and Development Director Jung-Han Chen, who explained that on July 7, 2020, Joe and Pam

Heintz filed an application to substitute an existing non-conforming telephone office and warehouse with a new non-conforming semi-trailer parking lot. On July 30, 2020, the BZA held a Public Hearing where board members asked questions relating to noise, security, driveway width, and landscape issues. Based on the details provided by the applicants, the board voted 3-0 to approve the substitution, with the condition of having a landscaping plan depicting buffering along Westbrook Road and the east side of the property. This is the outcome of the July 30, 2020, BZA hearing on this case. Councilmembers had no questions for Mr. Chen.

Mayor McDonald invited City of Clayton Mayor Mike Stevens to speak. Mayor Stevens shared the long history of working together with the City of Trotwood - mutual aid, including police and fire, and a lot of joint road projects, mainly on Westbrook Road. On behalf of the Clayton City Council and the City of Clayton, Mayor Stevens is requesting the decision of the BZA be repealed. He further stated that this is not the correct road for semi-trailer traffic and these trucks will damage a road that a lot of money and effort has been put into. It would be detrimental to the residents directly across from the property and the City of Trotwood would be missing the opportunity to fix a non-conforming use rather than approve another one. Mayor Stevens stated that the City of Clayton is all in favor of development; however, when it is the correct business in the correct location. Mayor Stevens believes the initial approval was incorrect and as a representative from the City of Clayton, he hopes the Trotwood City Council repeals the BZA's decision. Councilmembers had no questions for Mayor Stevens.

Mayor McDonald invited City of Clayton Law Director Martina Dillon to speak. Ms. Dillon stated their primary concern with the BZA approval of a new non-conforming use is that Westbrook Road lies half in the City of Trotwood and half in the City of Clayton. Ohio Revised Code § 723.01 states the legislative authority shall have the care, supervision, and control of the public highways, streets, etc., which puts the onus to maintain such roadways in a safe manner on both the City of Clayton and the City of Trotwood. Ohio Revised Code § 2744.02(B)(3) states political subdivisions are liable for injury, death, or loss to person or property caused if fail negligently to keep public roads in repair. Another basis of concern with the BZA's action in authorizing the substitution of a semi-trailer drop lot is that according to the application, the intention is to have 50 trucks and/or trailers stored at this lot. The increased semi-trailer traffic will result in increased damage to Westbrook Road, which is a small, two-lane road in a residential neighborhood. The Petition for Appeal summarizes the cooperation between the two cities when applying and receiving grants for road repairs, which is not inexpensive. Combined, over \$1 million has been spent over the last 14 years to maintain Westbrook Road. Mr. Chen's report to the BZA at the initial hearing asked some on-point questions, suitability for this site, less obtrusive, etc. The City of Clayton submits that the answers to his questions are no. The prior non-conforming use was for Frontier Communications and used for office space, outdoor parking, and storage. Fifty trucks traveling to and from the proposed lot will be more obtrusive to the neighborhood. Another question asked was if the new non-conforming use would be more intense with respect to traffic. Ms. Dillon stated that the City of Clayton believes yes, due to more trucks. There will be additional demands for public services, increased truck traffic, more road damage, more reports, and more funding needed to cover the cost of repairs. The last question was would the substitution be more conforming. This area is zoned Residential PUD and

there are 82 homes 300 feet from the proposed lot; the new non-conforming use would not be more conforming. Ms. Dillon's next point referred to City of Trotwood Ordinance 1131.02(e), which states that whenever a non-conforming use of a structure, or structure and premises in combination, is discontinued for a period of twelve (12) consecutive months, such a use shall not thereafter be reestablished. According to information in the application packet, the site has not been fully utilized due to tornado damage for over 12 months, which is sufficient to find that a new non-conforming use should not be reestablished. All of these points are contained in the Petition for Appeal. Ms. Dillon stressed they are not bad-mouthing the BZA; however, in this instance, the information is substantial enough to reverse the decision. Councilmembers had no questions for Ms. Dillon.

Mayor McDonald invited Mr. Randall Sanders, the City of Clayton's Public Services Director, to speak. Mr. Sanders agreed the City of Clayton and the City of Trotwood get along well; he works with Johnny McClusky frequently. Mr. Sanders reviewed the history of different projects and explained the first project he worked on with the City Trotwood was paving Westbrook Road from Union Road to Diamond Mill Road – approximately three (3) miles. This project was completed with grant funds of approximately \$400,000. Mr. Sanders also explained that both cities went through a strenuous process with ODOT to allow for self-inspections in order to save both cities money. Doing self-inspections can save up to \$40,000 on each project and both cities continue to do this. Mr. Sanders said the edge line of Westbrook Road is very fragile and it has a very thin base, which is more noticeable since the tornado because of the trucks hauling debris breaking the road down. Repairing the edge line is very expensive; a mile of work was just completed for approximately \$80,000. The added traffic with semi-trailers would compound this problem, breaking down the edge line even further. These are things to look at when talking about semi-trailer traffic. Councilmembers had no questions for Public Services Director Sanders.

Mayor McDonald invited City of Clayton Police Chief Matt Hamlin to speak. Chief Hamlin stated he has discussed this issue with City of Trotwood Police Chief Erik Wilson. Chief Hamlin wanted to remind City Council that a few years ago he was here to discuss the blind spots on Westbrook Road and the inexperienced and inattentive drivers going to and from MVCTC, Northmont High School, and Trotwood High School. When you add semi-trailer traffic on this road; car-to-car crashes are survivable but car-to-semi crashes are more severe and Council needs to be attentive to that. Councilmembers had no questions for Chief Hamlin.

Mayor McDonald invited the applicants, Joseph and Pamela Heintz, to speak. Joe Heintz explained that when he originally thought about taking on this project, he viewed it as a piece of property with over four (4) acres of pavement, asphalt, and/or gravel and it would be cost prohibitive to make it residential. He thought a drop lot would be good, it would be quiet other than the noise of trucks going in and out of the lot; overnight operations would depend on who he rents to. Local drivers would probably only use it on the weekends when they would come home on Friday night or Saturday morning and when they would leave Sunday night or Monday morning. Joe Heintz doesn't think there will be as much traffic as suggested and further explained that Westbrook Road is currently used by school buses, which weigh 25,000 – 40,000 pounds, loaded dump trucks that can weigh up to 80,000 pounds, and

farm equipment like grain trailers that weight at least that much, but he is unsure since they are not required to be weighed. Occasionally you will see a semi-trailer taking Hoke Road to Westbrook Road to get to Green Tokai in Brookville. The road damage in the exhibits of the Petition for Appeal is similar to the damage on Oakes Road where he lives and it is from the DP&L and Asplund trucks used to clean up after the tornado; they contributed to the edges breaking down. Pam Heintz referred specifically to the pictures of Westbrook Road between Hoke Road traveling west to Diamond Mill Road and explained she personally drove the road and agrees the damage is from the tornado clean up. Pam Heintz stated that semi-trailers have a high center of gravity; Joe Heintz added that getting on the edge is bad and trucks could dump over so they stay toward the middle when possible. Semi-trailers are 8.5 feet wide and the only time they may go to the edge is if another large vehicle is coming toward them. Joe Heintz said as far as noise, semi-trailers should never get above 35 mph on the 1.5 miles of Westbrook Road between Hoke Road and the property because it takes a while to get up to speed - unless a truck uses their Jake Brake for no reason, but they could always put up signs or give notice to those they rent to. Joe Heintz said as far as security, they plan to put up posts so trucks can back up to the fencing, which would be all around the property with security cameras so there would be no way to break in. If the property is left as is and nothing is done, it is wide open and anyone can go back there, which is another good reason to use this property. He said that Frontier is still using the property to store telephone poles so it is not abandoned. As far as whether their business would be less obtrusive, even if they rented out every possible space he's not sure that would be more obtrusive than piles of telephone poles. The lot would probably only fill up to 40% at any one time and that would probably be around the holidays. Joe Heintz stated that if the property is not used for this purpose, he's not sure what business could use it because of all the pavement. As far as additional demands for service, there are wide openings at the intersections by Hoke Road and Moss Creek and at the housing development. Most loads would not be very heavy unless he rents to P&G; Warner pulls for them and they may be heavier than most, but there are a lot of different things he could do and that is likely the worst case. They might find a company with empty trailers that would use the lot to trade out or just park trailers there to get them out of the way since they may not have enough room on their own property. Another option might be to have a company, for example from Missouri, bring teams to drop trailers off for local people to pick up – this would not generate much traffic, maybe a couple of trailers a week would get moved. Joe Heintz does not think the road would be near as busy or have as much damage as some think. Obviously he won't know until he tries but Joe Heintz has been on narrower roads, like in Los Angeles, so ten-foot side roads are not hard to navigate; he's been doing this for 30 years. As far as developing real estate in the area, Trotwood has been trying to do so, like Moss Creek, which he believes to be the most picturesque development in Montgomery County, but no one is building there. The area may be better served by getting a tech company since it is only a mile or so from the interstate, then have a tax base for both cities to share. Pam Heintz explained that sometimes companies rent spaces simply to have a place to put their trailer until it is picked-up. Their main concern is to provide safe parking for residents who drive trucks because they are currently parking their rigs by Lowes and the old Salem Mall lot and using these open areas create problems with theft and other activities. They plan to install a security fence and a security gate with passcode access. Only those renting could get into the lot and it would also be available for people in

Clayton and Englewood. Parking is a critical problem for large trucks. Most of the area parking lots are small and developed for truck drivers who are traveling through; local drivers cannot rent spaces there. There are truck stops in Richmond, Indiana; Vandalia and downtown Dayton but they fill up very quickly. Pam Heintz reiterated there is a truck parking problem and they want to provide safe and secure parking for local residents so they don't have to park in places where they are not wanted. Pam Heintz commented that the Clayton Police Chief talked about the blind spots and she drives that part of Westbrook Road every day and the dip is a problem, especially if you are in a small car. However, when you have 9-foot-tall vehicle, you will be able to see the vehicle in the dip. She further explained that the area of 6464 Westbrook Road is completely visible for a quarter of a mile in both directions. Trucks have a lot of reflective lighting, especially at night, so they would be very visible. Lastly, Pam Heintz pointed out that drivers to and from MVCTC has been a problem for as long as MVCTC has been there. Mayor McDonald opened the floor for questions from councilmembers.

Council Member Vaughn stated that one of the concerns mentioned is when you enter into the old Frontier property, the narrowness of the entryway. Council Member Vaughn asked Joe and Pam Heintz if they would be willing to expand the area so trucks would not need to enter into the other lane of traffic to swing in or out of the driveway. Joe Heintz explained that he measured the property entrance and it is 31 feet. He further stated that he hasn't tried it, but he is pretty sure he could get in. But, if needed, they would widen the driveway. Council Member Vaughn reiterated the need to ensure trucks would not have to enter the opposite lane of travel in order to turn in or out. Council Member Vaughn commented on the continued use of the property and that just yesterday, he himself photographed two commercial vehicles exiting the property. Also, he was there after the tornado and saw 50-foot-tall telephone poles, 8 foot spools of cable, and other equipment and trucks, which was obviously owned by Frontier, so to suggest they are out of business or that they have vacated or abandoned the property is simply not true and the property is still being utilized. Council Member Vaughn directed a comment to Joe Heintz that as an owner of a trucking company, he is familiar with the width of roadways, distance, and those things. Greyhound buses were on Westbrook Road until not too long ago so when talking about extra ordinary use, how many trucks are speculated since it would be a drop location? Council Member Vaughn advised that he has been in transportation logistics and warehousing for 37 years so when he hears it isn't logical, he feels it is overstated, exaggerated, and perhaps escalated in order to point out that it is not convenient. Council Member Vaughn asked Joe Heintz if he could give the average usage on the distance of Westbrook Road between State Route 49 and Brookville, roughly 7 miles; with these average access points, the means and directions people would travel, what the daily traffic might be and the use and purpose served. Joe Heintz answered by saying it would depend on who he rents to and what they would be doing. If used for just storage, hardly at all. But, if P&G, they use Warner and they do loads for teams so maybe in and out four-five times a day, it's hard to say. Pam Heintz added that a lot of times when companies rent space they rent ten spaces but only park two or three trailers there at a time; it doesn't mean all ten spaces will be filled at the same time but that they have the ability to put ten trailers there if needed. Further, the back-and-forth flow would be owner operators parking over the weekend. This would be closer to home for them and we would offer a place to park their personal vehicles. If she had to guess, a lot of the traffic would be on

Fridays and Saturdays and Sundays and Mondays and maybe six or so vehicles being moved over the weekend. Pam Heintz explained that when they filled out their application, they used the maximum number of spaces, realizing it would not fill up; they were simply trying to give the City of Trotwood some numbers. Council Member Vaughn asked if Joe and Pam Heintz could describe at the height of Frontier's business, what types of vehicles would have been necessary to transport to and from 50+ telephone poles, which there are 100 there now; obviously that wasn't done with a pick-up truck, a flat-bed truck, or a box truck, they were semi-trailers. Pam Heintz agreed they would have been very large trailers because of the length of the poles and added that the off-tracking would have been substantial. She further explained that off-tracking refers to the tires that follow the towing vehicle and frequently when berms are broken down it's because of the off-tracking and stated it takes a very skilled driver to turn off-tracking trailers hauling something that long. She added that she did not know if Frontier drivers were required to have their commercial driver's license (CDL), but if so, obtaining a CDL requires the ability to stay on the road and be able to make turns. Council Member Vaughn asked Joe and Pam Heintz to describe what it was they were asked to do as far as the façade, fencing, anything to offset the appearance to the three homes about 1,000 yards away that have direct site of the property. Council Member Vaughn knows there are trees, berms, and bushes because he photographed them in order to see how much of an impediment they would be or how offensive they would look. He commented that he also lives in a neighborhood and understands the position of the homeowners. Pam Heintz explained that the approval included some sort of landscaping. She stated that the grass that covers 300 feet deep onto the property, they would put arborvitae trees on the south end of that grass area, closer to the actual fence, leaving 250-300 feet of grass space from the road to the security gate. They would place them to create a visual barrier from the chain link fence, although the gate would have to remain visible. They would install a gate that would slide back and forth on the driveway. They would work with the homeowner on the east side of the property to see what visual barrier they would like. Council Member Vaughn asked about their timeline to have the façade and landscaping in place. Pam Heintz stated if everything else works out, they could buy large trees and still plant this fall. Mayor McDonald asked if any other councilmembers had questions.

Council Member Gales stated that she drove there also and saw the dilapidated barn that is being used and worries because it goes right into Moss Creek. She asked Joe and Pam Heintz what they would do because she doesn't believe those living at Moss Creek would want to look over and see a trailer parking lot. Joe Heintz stated they would put arborvitae trees on the west side of the property. Pam Heintz questioned where Council Member Gales was referring to as there is no barn. Mayor McDonald asked if Council Member Gales had a question and she asked what the barrier would be so that Moss Creek residents would not see the 9 foot trailers. Pam Heintz explained there would be security fencing on the west side with some sort of vining plants growing up the fence, which would be 8 feet tall.

Council Member Finley wanted to piggyback on a couple of things Council Member Vaughn mentioned about the trucking industry. First, she commented on the collaborative partnership the City of Trotwood has with the City of Clayton and looks forward to a long-standing relationship moving forward. Also, in terms of economic development, a trucking academy was opened on



Olive Road and Montgomery County Commissioner Debbie Lieberman was very happy with the City of Trotwood for looking at the growing trucking industry. The City of Trotwood is very aware of the issue of having large trucks in the community, but also the benefit of having the community represented. Council Member Finley further stated that trucking is a growing industry and President Trump has dubbed it the life-blood of the economy and that's looking at the distribution industry of clothes, food, medicine, and the impact of the industry outlook on e-commerce. Council Member Finley stated she hoped for the opportunity to ask Joe and Pam Heintz to mitigate some of the issues that have been addressed tonight so we can move forward.

Next, Mayor McDonald asked Trotwood Police Chief Erik Wilson to speak. Chief Wilson advised he was asked to review the approved plan from the BZA. He discussed how Westbrook Road, along with Shiloh Springs Road, Little Richmond Road, Old Dayton Road, and Third Street, all run on an east/west access. The problem traveling these roads is going west at sunset you have the sun in your eyes, which does cause blind spots in some areas. Chief Wilson shared a visual that showed if someone is driving 55 mph it takes 2,100 feet to bring the car to a stop. It takes 16 seconds for a truck to make a left hand turn. This means there is a risk of having citizens ride up behind a truck and not seeing it because of the sun in their eyes. Also, there have been an average of 6.6 traffic crashes per year on Westbrook Road from 2012 to today. Chief Wilson supports Chief Hamlin's comments about young inattentive drivers from MVCTC, and added that the residential neighborhoods in that area have grown and that tends to lead to more distracted drivers. As Chief Hamlin said, a car-to-car crash is survivable, a car-to-semi crash has a heightened risk of being more severe. These are all things that must factor in to this decision. Lastly, Chief Wilson stated that a semi-trailer would have to swing into oncoming traffic at the Hoke Road intersection.

Council Member Vaughn stated he is a retired public safety commander of 27 years, and asked Chief Wilson what the average speed is of a motor vehicle, a passenger car, on Westbrook Road. Mayor McDonald answered by stating it was too fast. Chief explained the posted speed limit in 2016 went from 50 mph down to 40 mph due to speeding. He further stated that the police department works vigorously to maintain traffic control; however, calls for service take priority over dedicated traffic enforcement, although from time-to-time the department does receive grants, and Clayton probably does as well, to put officers in place to manage speed. Chief Wilson agreed with Mayor McDonald that people drive faster than they should on Westbrook Road. Council Member Vaughn submits that passenger cars are your average violator, reason being that if a commercial truck driver is cited for speeding, after so many points, they lose their livelihood; they lose their license and job, it's different than a fine from a municipal court for speeding in a passenger vehicle. He went on to say that most professional drivers don't just do it because it's more dangerous, but that they comply with the law because they have to. They have various compliance and regulation standards so they are very cautious. While he doesn't disagree that a small number of semi-trailers can be dangerous, they are much more careful because they have to be; they drive within the speed limit almost entirely. Council Member Vaughn stated he talks to state troopers and regulators and there are not a lot of semi-trailers doing 90 mph. He wanted to bring this point forward for the consideration of council, not to dispute any other comments, but one of practicality. Mayor McDonald asked Chief Wilson if he had anything further to add. Chief Wilson clarified that he was not

suggesting the trucks are speeding, he was talking about the cars on the roadway; Mayor McDonald understood. Council Member Kelley commented that he heard Chief Wilson loud and clear. Chief Wilson further stated that it's not the trucks, but having trucks on the roadway with the vehicles, which was already stated that they drive too fast. The cars on the roadway would be dealing with the trucks, along with the buses, and farm equipment.

Mayor McDonald asked Deputy City Manager Stephanie Kellum to review the additional details the city learned. Deputy City Manager Kellum said that several points had not been addressed. The first point being that while there is disagreement as to whether or not storing items on the property constitutes operations, it is important to note that this property was used primarily for office space, not for storage, and having abandoned items there does not constitute operations. In addition, the applicant themselves consider the property to be abandoned as they indicated so on their application. Deputy City Manager Kellum then spoke about the different types of vehicles used by Frontier and other communication companies and semi-trailers. She shared a slide that depicted the types of trucks and trailers and their size. Semi-trailers are more represented by the lower trucks on the visual, a significant increase in length and that impacts their turn radii; it is not possible on 10 foot roads to turn either direction without going off the road, which would cause damage, or turn into the oncoming traffic lanes. Deputy City Manager Kellum explained that her husband is a truck driver and she understands the need for parking, but she agrees with Clayton Mayor Stevens, only in the right location. She does not feel, nor does the city manager feel based on the memo he distributed earlier this week, nor does the engineer feel based on her report, that this is the right location. In addition, the city's code on non-conforming use, 1131.02, subsection (h), is where an error was made. Improvements to the property will be required and the reason for not granting this application should be because it only allows the substitution of another non-conforming use if there are no structural alternations or improvements. In order to not adversely impact the quality of living for the person living next to, across, and down the street, improvements are necessary, even to include, as Council Member Vaughn pointed out, possibly widening the driveway significantly. This contradicts the granting of an additional non-conforming use and it is very important that everyone considers this because if not, a precedent will be set for other businesses to come in if we do not regard our own ordinances.

Mayor McDonald asked if there were any citizens that had something different to say, other than what has already been shared.

Mr. Jon Fugate approached the dais. Mr. Fugate explained that he lives in the house just east of the property and he is so close that when the building blew over during the tornado, half of it blew into his yard. He also advised that it is not 1,000 feet away as suggested, his property is approximately 100 feet from the back wall of his house. Mr. Fugate has four young daughters and grew up in the city, has traveled the world, and was in the military for six years. He bought his house knowing the property next door was being used as an office and he never saw a semi-trailer enter the facility to pick up telephone poles. The company used box trucks and a dolly system and telephone poles were not their main course of business. The reason there are poles there now is because since the tornado, every company, even some from out of state, dump poles on the property. Mr. Fugate explained that when the business was operational they would come in around 6:00 – 8:00 a.m. and be gone by 4:00

p.m. and they were usually at work. Now he has kids and when a dump truck comes over and backs up, the beeping noise makes his dogs lose their mind. To have trucks coming in at 1:00 a.m. on Saturday, using their Jake Brake or even just releasing their air breaks, is going to wake up his whole household. Mr. Fugate is asking for understanding and even invited anyone to come by and view it from his side; there are still blocks in his yard and when he originally talked to Frontier after the tornado, they were just going to walk away. Frontier moved their business to Brookville, then Trotwood, but there has not been any business operating out of this property unless doing so illegally. Mr. Fugate let Council Member Vaughn know that if he saw someone there today, he can promise they weren't supposed to be there. Mr. Fugate advised he has permission to talk to people that come onto the property and he himself has run off a handful of people. He has called the police in the past and even described an incident when he could hear someone sawing the fence so the next morning he let the office know they were broken into overnight. He has been dealing with this property since 2005 and over time has built a relationship with the company. Mr. Fugate's wife is concerned with what would come in and out of there. He understands it is a business and that there is access from Salem Avenue, 35, and other different access points, but this is a neighborhood and they want to raise their kids here. They received a letter about the first hearing and due to COVID, they wrote back. He also e-mailed Mr. Chen and talked with his secretary to voice their concerns and that they did not want the truck lot. They didn't make it to the meeting so Mr. Fugate feels that because he nor his wife showed up, their concerns were not brought to anyone's attention. The next thing they heard was that it passed. Mr. Fugate shared there are places that would be more beneficial on Salem Avenue and that he already sees more trucks on Westbrook Road going to the Caterpillar plant. He also knows that Vandalia reduced their speed limit so that it doesn't show up on map programs for semi-trailers to find a cut through – 25 mph zones will get kicked off Google maps. There is already increased traffic and increased noise and this was a peaceful and quiet neighborhood. Moss Creek is trying to come back, he just talked to the owner and they are cleaning up and looking for growth, as well as a new subdivision north of Hoke Road. All of these areas are residential areas with potential growth. Mr. Fugate stressed this area is for residential, not commercial property.

Ms. Phonda Gamble approached the dais and shared that she is a resident of Westbrook Meadows and is here to ask Council to really look at this, not only for what has been said tonight, but also because this is a residential neighborhood. Ms. Gamble commented that there are plenty of places on Salem Avenue or Shiloh Springs Road; Trotwood is moving up and this is not a business Trotwood needs now. Ms. Gamble is an alumni of Trotwood and her parents still live in Trotwood; her heart is still Trotwood even though she lives in Englewood. She also stated that from Westbrook Road onto Hoke Road there is no way a semi-trailer can make that turn without going into the other lane. It is a dangerous situation with children coming from MVCTC, and even adults and she is asking Council to appeal this decision.

No other citizens came forward.

## **VII. Motion to Close the Public Hearing**

Mayor McDonald requested a motion on this item. A motion was made by Vice Mayor Brown, seconded by Councilmember Vaughn, to close the Public

**Hearing. The Motion carried by the following vote:**

**Aye:** 7 - Mayor McDonald, Vice Mayor Brown, Councilmember Gales, Councilmember Vaughn, Councilmember Finley, Councilmember Kelley Jr. and Councilmember Page

## **VIII. Council Discussion**

Mayor McDonald advised that Section 7.2 of the City's Charter states that Council's duty is to discuss the information presented then vote to Affirm, Reverse, or Modify the decision made by the BZA in Case #20-07. Mayor McDonald explained that Council is the final body to make a decision on this issue and she will open the floor for each councilmember to speak.

Council Member Kelley requested to speak first and started by thanking all of the speakers on both sides of the issue. He commented that some very relevant facts were brought out, some he already knew but some he didn't. Council Member Kelley shared that the bottom line with him is always safety and security and that ranks very high on this project. His biggest concern is what's going to happen with that part of the community and he believes the point was very well made. Council Member Kelley is also looking at the collaboration with the City of Clayton and in his years of serving, he does not think they have ever come to Council for anything like this so he knows it must be very troubling for them. Another concern is the fact that a lot of money has been spent on Westbrook Road and we have to think about how that impacts us from a tax standpoint – he does not take that lightly. Council Member Kelley reiterated that these are his concerns; the safety and security concerns for that part of the community.

Mayor McDonald went around the dais and Council Member Vaughn was next to speak. Council Member Vaughn said that he heard what the community had to say and while he is not indicating how he will vote, he said that in 19 years of service and being the most senior council person, he has never heard a BZA decision overturned and he has never heard the City come forth with arguments against an applicant after it had been approved. Not legally, not by attorneys, roadway people, law enforcement, code enforcement, by anyone, and this is something that should have been brought forth months ago at the initial hearing. Council Member Vaughn stressed that he hopes never to see this again because he is ashamed and embarrassed that a lifetime resident who makes an application has to come forth and hear this information at this point. Council Member Vaughn stated that he stands informed, educated, and involved much more than ever before; he feels he said enough.

Council Member Page spoke next and thanked everyone who was at the meeting. She commented that the conversation was enlightening across the board. She also wanted to commend the applicants who looked at the area wanting to do something. Council Member Page added that her brother drove a truck for over 30 years and when he came home, he didn't have a place to park his rig. She wanted to clarify that the applicants want to use the lot to just drop their trailers and there would be no overnight sleeping. She understands the trucking industry and how important it is. She is concerned about the number of people living in the Clayton, Brookville, and Trotwood area who drive trucks and that they could use this facility. Council Member Page stated when she looks at the information presented, she is curious and didn't know

how to ask, about how this would affect homeowners in regards to their property values. By opening a trucking facility, what type of revenue would this generate for the City of Trotwood? She also commented that the City of Trotwood and the City of Clayton have worked together in the past and this is not going to stop them from working together in the future. She feels this has brought the cities closer and although she doesn't know how she will vote, she believes enough information has been given to make a decision.

Council Member Finley then spoke and thanked everyone for coming to the meeting. She echoed the comments of her colleagues and expressed how exciting it was to have everyone at the table. She commented that knowing the strength of the team, and growing as one; coming together is the beginning, staying together is progress and she believes that by continuing to work together, we will be successful. Council Member Finley reiterated that she wants to do what is right for the City of Trotwood and make sure to work together with the neighboring municipalities.

Council Member Gales said she kept an open mind and listened and she also agrees with Council Member Page about homeowners. She explained that her dad was a truck driver and she didn't want him parking his semi in her neighborhood. She stated that she wished the information heard tonight could have been heard at the initial hearing so that maybe a different decision was made. Council Member Gales worries that when the door is open and with the trucking industry booming, she can easily see 50 trucks in the lot every day. When people travel and you go to a truck stop, they are full. She expressed there is a need, but she wonders if this is the location for it.

Vice Mayor Brown started by thanking those who attended and spoke at the meeting. Her main concern to take into consideration is the residents of Trotwood; they come first and that is who Council serves so she needs to consider their safety in the streets, as well as in their homes. She also stated she is grateful for the collaboration with the City of Clayton and understands the cost of repairs that have already been done is a burden on both municipalities. Vice Mayor Brown reiterated that her stance is that the citizens come first and their safety is her concern.

Mayor McDonald expressed that she has many concerns, the relationship with Clayton and the overall safety of the citizens all weigh heavy on how she feels. People need to be safe and economic development is needed, but is this the right development for this area; she believes this is the question. Further, the reason this item has come before Council is because all of the information necessary for the BZA to have made a decision that would have kept this item from this level was not given, it was not provided. This is an unfortunate failure by our staff and now we have to recant something a board did. Mayor McDonald stated she was very sorry to say that, but it is the truth. Moving forward she is deeply concerned because she too sees trucks parked in all different places; but, when you talk about them in residential neighborhoods there are many challenges. Not only is parking an issue, but the crimes that happen in areas when there is not 24-hour a day supervision. She also has a huge number of concerns with relationships and the roads. She explained that she was one of the residents many years ago who stood up with Council Member Vaughn who did not want Greyhound buses in the community because they would tear up the roads; and by the time they left, they had torn up the roads. Greyhound started out saying it would only be 1-2 buses, then

there were other bus companies who took total advantage of the decision and there was nothing Council could do. Mayor McDonald stated she appreciates what the applicants are wanting to do and invest in the community, but she has deep concerns with the location.

**IX. Motion to Affirm, Reverse, or Modify the Board of Zoning Appeals Decision in Case #20-07**

Mayor McDonald requested a Motion on this item. A Motion was made by Vice Mayor Brown, seconded by Councilmember Kelley, Jr., to Reverse the decision of the Board of Zoning Appeals in Case #20-07. The Motion carried by the following vote:

**Aye:** 5 - Mayor McDonald, Vice Mayor Brown, Councilmember Gales, Councilmember Kelley Jr. and Councilmember Page

**Nay:** 2 - Councilmember Vaughn and Councilmember Finley

**X. Motion to Adjourn the Special Meeting**

Mayor McDonald advised that Law Director McHugh will memorialize Council's vote in a written decision for Council's approval at the next Regular Council Meeting scheduled for Monday, November 2, 2020.

Mayor McDonald requested a Motion on this item. A Motion was made by Vice Mayor Brown, seconded by Councilmember Finley, and Councilmembers were All In Favor to Adjourn the meeting at 7:35 p.m.

**Aye:** 7 - Mayor McDonald, Vice Mayor Brown, Councilmember Gales, Councilmember Vaughn, Councilmember Finley, Councilmember Kelley Jr. and Councilmember Page