

JONES DAY

NORTH POINT • 901 LAKESIDE AVENUE • CLEVELAND, OHIO 44114.1190

TELEPHONE: +1.216.586.3939 • JONESDAY.COM

DIRECT NUMBER: +1.216.586.7108

JSAYWELL@JONESDAY.COM

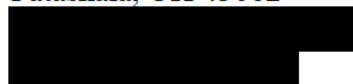
October 24, 2025

VIA EMAIL

Timothy Hickin
City Administrator

Brian M. Zets
City Attorney

621 W. Broad Street
Pataskala, OH 43062



Re: Conley Permit Denial—Nativity Display

Dear Mr. Hickin and Mr. Zets:

Along with First Liberty Institute, we represent Susan Conley. We write regarding her September 15 permit application (attached as Exhibit A) to display a Nativity on the Veterans Green during the Farmers Market scheduled and permitted for December 12, 2025.

As you are already aware, Ms. Conley genuinely believes that she should share the message of Jesus Christ's birth during the Christmas season. She wishes to express this message visually, by telling the Christmas story through a 10'x10' Nativity display. And she wants to share this message on the Veterans Green, a public forum where the community comes together and where a variety of groups regularly share their beliefs and publicly exercise their constitutional rights.

On September 15, Ms. Conley applied for a permit to host the Farmers Market she regularly hosts, which is considered an "outdoor entertainment event" under Pataskala Ordinance § 729.02. Ms. Conley included in her application her plans to put up a live Nativity display as a component of that event for this December's Farmers Market—the market would be "[s]imilar in nature to our summer Farmers Market, but with a Christmas theme." Ex. A at 2.

On September 18, however, the City of Pataskala denied the permit as to the Nativity display. While Ms. Conley could host the Farmers Market on the public property on and near the Veterans Green—"all items [were] fine" in that regard—the City made clear that the "nativity cannot be on any property owned or leased by the city," including "all of the Veterans green." Ex. A at 4. The City thus barred Ms. Conley—at risk of penalty of misdemeanor, *see* Pataskala Ordinance § 729.99—from displaying the Nativity at this public and approved space and event.

Timothy Hickin and Brian M. Zets
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The City's decision to deny Ms. Conley permission to display a Nativity during the December Farmers Market violates the Constitutions of both the United States and the State of Ohio. It is well established that denying permits for religious displays on public property because of their content is unconstitutional. *See, e.g., Capitol Square Rev. & Advisory Bd. v. Pinette*, 515 U.S. 753, 760–61 (1995); *Satawa v. Macomb Cnty. Rd. Comm'n*, 689 F.3d 506, 517–25 (6th Cir. 2012); *Chabad of S. Ohio & Congregation Lubavitch v. City of Cincinnati*, 363 F.3d 427, 434–36 (6th Cir. 2004). And it is equally clear that that is exactly what the City did here. The City's denial of Ms. Conley's permit follows the City's practice, policy, and custom of refusing to permit "nativity or creches on city property," E-Mail from Tim Hickin to Susan Conley (Oct. 20, 2023) (Exhibit B), and of "limiting religious practices or iconography" on city property, E-Mail from Tim Hickin to Sarah McGuire (Aug. 20, 2024) (Exhibit C). This city policy, as applied to Ms. Conley's September 15 permit application for the Veterans Green, is blatantly unconstitutional.

It is no defense—in fact it makes it even worse—that the justification the City provided for its policy is to "guard against other groups (like hate groups)" from exercising their rights at public forums, too. Ex. C. As the cases cited above (and many, many more similar cases) hold, a city cannot deny one display to prevent some other group from putting up its display. For traditional public forums like the Veterans Green, or if a city opens up a forum to the public (as Pataskala undoubtedly has done here), the city cannot deny a display on the basis of its content or viewpoint.

Ms. Conley thus respectfully requests that Pataskala—either you in your capacity as City Administrator or the Council under Pataskala Ordinance § 729.05(b)—immediately grant her permit application in full so that she may express her religious message by setting up a Nativity display at the Farmers Market on December 12. Should the City decline, Ms. Conley will need to sue to vindicate her constitutional rights. And she will need to do so by October 31, including to ensure she is able to obtain preliminary-injunctive relief in time for the December 12 event.

Ms. Conley separately requests, under Pataskala Ordinance § 729.02, the general guidelines governing the City's criteria for granting or denying permit applications. Please send those to me via email at your earliest convenience.

I would be happy to discuss this matter with you. Please feel free to call me to discuss.

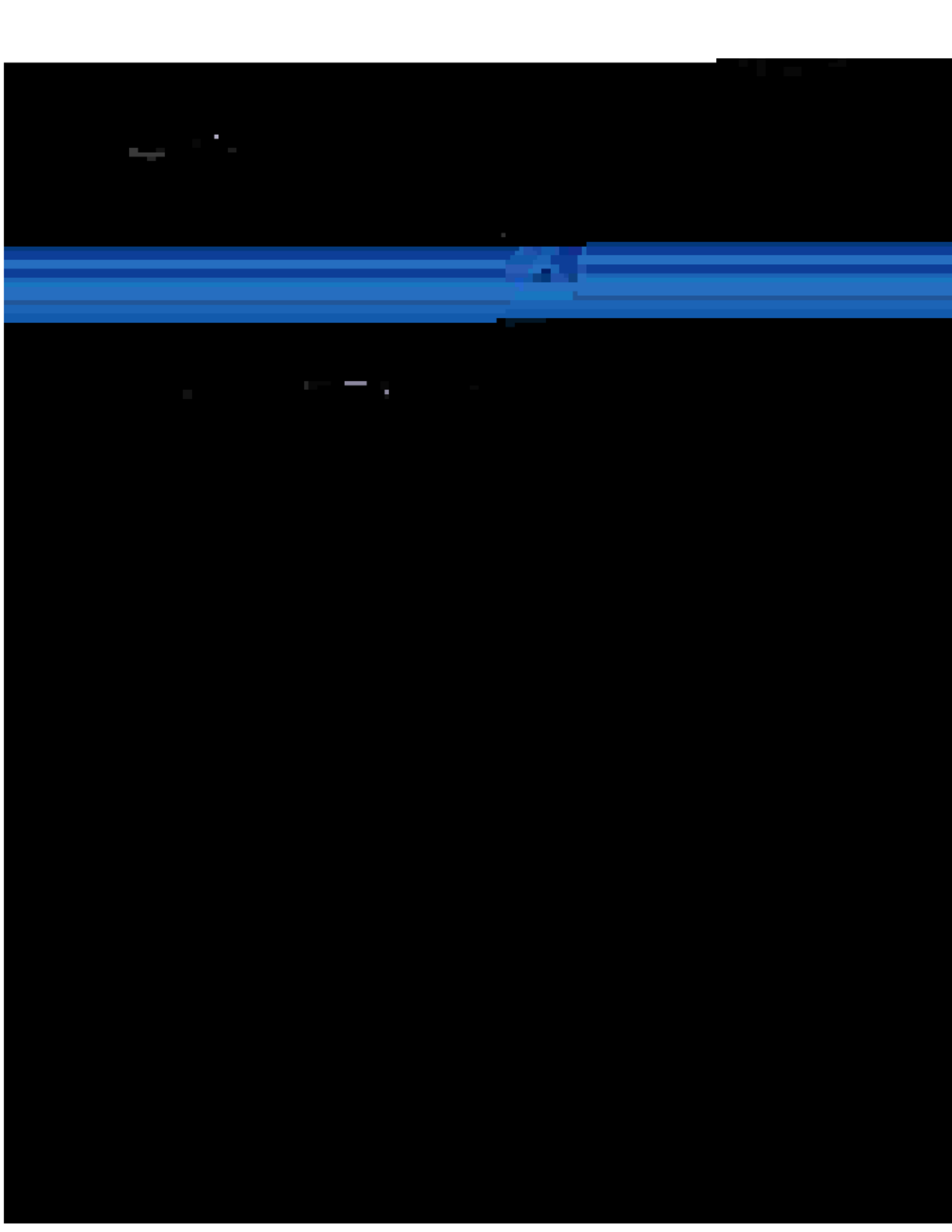


Exhibit A

(Applicant _____ Date of event _____) Application # _____
Date Application Received _____ (Must be at least 30 days prior to event for processing)



OUTDOOR PUBLIC ENTERTAINMENT EVENTS PERMIT APPLICATION

CITY OF PATASKALA, DEPARTMENT OF THE CITY ADMINISTRATOR
PURSUANT TO CODIFIED ORDINANCE § 729 as amended June 8, 2009

General Outdoor Public Entertainment Events Permit Requirements:

1. Applicant must be at least eighteen (18) years of age to obtain an Outdoor Public Activities Permit.
2. Applicant must furnish to the City Administrator proper identification. Proper forms of identification include:
 - a. State of Ohio Driver's License;
 - b. State of Ohio Driver's Permit;
 - c. State of Ohio Identification Card;
 - d. Driver's License, Driver's Permit or Identification Card issued by another state;
 - e. Any other photo identification card bearing the Applicant's full name, birth and/or social security number.
3. Fees and Bonds:
 - a. Application Fee: \$25.00 non-refundable;
 - b. Performance Bond for \$2,500.00 to guarantee performance of conditions stipulated on Outdoor Public Entertainment Event Permit.
4. Names and social security numbers of all ride and game operators if working for a for-profit amusement company that is hired for the event. Police Department will do background checks.

PLEASE PRINT LEGIBLY OR TYPE THE FOLLOWING: (attach additional pages if necessary to fully describe your event)

1. **APPLICANT NAME (SPONSOR OF PUBLIC ACTIVITY):**

Susan Conley, Pataskala Farmers Market

PROCEEDS BENEFIT WHAT AGENCY/ PROGRAM?

Pataskala Farmers Market

2. **APPLICANT'S AGENT (CONTACT PERSON):**

Susan Conley

3. **APPLICANT ADDRESS:**

[REDACTED]

4. **APPLICANT PHONE NUMBERS:**

- a. HOME: (____) _____
- b. BUSINESS: (____) _____
- c. CELL: [REDACTED] _____

(Applicant _____ Date of event _____) Application # _____
Date Application Received _____ (Must be at least 30 days prior to event for processing)

d. PROVIDE NAME(S) AND CELL PHONE NUMBERS OF INDIVIDUAL(S) WHO WILL BE AVAILABLE ON THE PROPOSED LOCATION FOR THE ACTIVITY DURING ALL HOURS OF THE ACTIVITY. ATTACH AN EXTRA SHEET WITH SCHEDULES IF NECESSARY.

Susan will be onsite from 2:30-8 pm throughout the entire activity, [REDACTED]

5. NAME, CONTACT INFORMATION, AND ROLE, OF OPERATOR OF THE EVENT OR ALL ACTIVITIES OF THE EVENT IF MORE THAN ONE.

6. PROPOSED DATE(S) OF OUTDOOR PUBLIC ACTIVITY:

Friday, December 12, 2025

7. PROPOSED HOURS AND DURATION OF OUTDOOR PUBLIC ACTIVITY:

Set up 2:30 - 4 p.m., Market open 4 - 7 p.m., Tear down 7 - 8 p.m.

8. PROPOSED LOCATION (ADDRESS) OF OUTDOOR PUBLIC ACTIVITY:

Veterans Green

9. PROPERTY OWNER(S) SIGNATURE GRANTING PERMISSION FOR ACTIVITY (Or

Attach Copy of Use Permit from City Parks & Recreation Board if applicable) City Lease

10. ATTACH A SKETCH PLAN OF THE PROPOSED LOCATIONS OF ALL RIDES, BOOTHS AND OTHER EVENTS. SHOWING THE DIMENSIONS OF THE SITE AND WHERE ANY UTILITIES SUCH AS WATER AND ELECTRICITY WILL BE ACCESSED.

11. BRIEF DESCRIPTION OF OUTDOOR PUBLIC ACTIVITY (events, vendors, games, entertainment etc):

Live Nativity with live actors portraying Biblical figures, a 10'x10' temporary stable, hay bales, live animals, & Christmas Market with handcrafted, homegrown, homemade items only, including 1-2 food/drink vendors, and live music.

Similar in nature to our summer Farmers Market, but with a Christmas theme

12. HAS THIS EVENT OR THIS SPONSOR BEEN THE SUBJECT OF ANY PREVIOUS COMPLAINTS, CITATIONS ISSUED, AND/OR ACTIONS TAKEN RELATIVE TO ANY REQUIRED PERFORMANCE BOND? IF SO PLEASE DESCRIBE: N/A

13. WILL LAW ENFORCEMENT OR OTHER SAFETY FORCES BE NEEDED? _____ TO WHAT EXTENT?

(Applicant _____ Date of event _____) Application # _____
Date Application Received _____ (Must be at least 30 days prior to event for processing)

14. PROVIDE CONTACT INFORMATION AND DETAILS OF ARRANGEMENT FOR EACH SUCH OFFICE:

15. DESCRIPTION OF NOISE, SOUND, OR SOUND EQUIPMENT CONNECTED WITH OUTDOOR PUBLIC ACTIVITY (MUSIC, ETC.):

Possible music group(s) providing Christmas carols, or tunes, generator noise from food vendors and lights

16. APPROXIMATE HOURS OF NOISE, SOUND, USE OF SOUND EQUIPMENT:

2:30-8 pm

17. APPROXIMATE MAXIMUM DECIBELS OF SOUND (OR MAXIMUM DISTANCE SOUND EMANATES FROM OUTDOOR PUBLIC ACTIVITY):

acoustic/acapella potentially up to 100 dB

18. APPROXIMATE NUMBER OF PEOPLE EXPECTED TO ATTEND OUTDOOR PUBLIC ACTIVITY(DAILY, AND MAXIMUM AT ANY ONE TIME):

PER DAY: 400

MAXIMUM AT ANY ONE TIME: 200

19. WILL THE EVENT UTILIZE ANY ON SITE SIGNAGE? X y _____ n

WILL THE EVENT UTILIZE ANY OFF SITE SIGNAGE? X y _____ n

HAS A TEMPORARY SIGN PERMIT BEEN APPLIED FOR? X y _____ n

IN WITNESS WHEREOF, I HEREBY DECLARE THAT THE INFORMATION ABOVE IS TRUE, TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: 09/15/2025

SIGNATURE OF APPLICANT: Susan Conley

Printed Name and Title: _____

FOR OFFICE USE ONLY:

FEES RECEIVED:

_____ \$25.00 Non-Refundable Application Fee

_____ Performance Bond of \$2,500 -- Bond Number waived

(Applicant _____ Date of event _____) Application # _____
Date Application Received _____ (Must be at least 30 days prior to event for processing)
*Administrator may waive Bond Requirements for community and non-profit groups in good standing.

CITY ADMINISTRATOR RECOMMENDATION:

☒ APPROVE
☒ APPROVE WITH CONDITIONS (conditions attached on a separate sheet)
☐ DENY

CONDITIONS TO APPROVAL:

All items fine except live nativity cannot be on any property owned or leased by the city. This includes all of the Veterans green and the property (parking lot) across S.R. 310

IF CONDITIONS ARE ATTACHED TO APPROVAL, COPY OF CONDITIONS MUST BE PROVIDED TO APPLICANT.

DATED: 9/18/25

CITY ADMINISTRATOR SIGNATURE: _____

APPLICANT'S SIGNATURE IN ACKNOWLEDGEMENT OF CONDITIONS: _____

A COPY OF THIS PERMIT MUST BE FILED WITH THE CITY OF PATASKALA POLICE DEPARTMENT AND THE SOUTHWEST LICKING FIRE DISTRICT.

Exhibit B

Thu, Oct 19, 2023 at 2:43 PM

Susan Conley [REDACTED] >
To: Tim Hickin [REDACTED]
Cc: Jason Fravel [REDACTED] >

In place of the flag if possible.

Susan Conley
[REDACTED]
[Quoted text hidden]

Fri, Oct 20, 2023 at 11:48 AM

Tim Hickin [REDACTED] >
To: Susan Conley [REDACTED] >
Cc: Jason Fravel [REDACTED] >

Susan,

I have hit an unexpected snag in the live nativity plan. The city does not allow nativity or crèches on city property. I sometimes don't think of Vets Green as city property but my Law Director pointed out today that it is. For this reason, we would have to try another location not owned by the city to have a live nativity. I am sorry that I didn't catch this until now.

[Quoted text hidden]

Fri, Oct 20, 2023 at 11:54 AM

Tim Hickin [REDACTED]
To: Susan Conley [REDACTED]

Susan,

I should have added that you should feel free to call if you'd like to discuss options for the nativity.

Timothy Hickin

City Administrator-City of Pataskala

[REDACTED]
[REDACTED]

From: Susan Conley [REDACTED]
Sent: Thursday, October 19, 2023 9:42 AM
To: Jason Fravel [REDACTED] >
Cc: Tim Hickin [REDACTED] >

[Quoted text hidden]

[Quoted text hidden]

Fri, Oct 20, 2023 at 12:07 PM

Susan Conley [REDACTED] >
To: Tim Hickin [REDACTED]

Exhibit C



Tim Hickin

to me ▾

Tue, Aug 20, 11:06 AM (2 days ago)



Hi Sarah!

As far as I am concerned the no nativity on city property issue would not be solved by using SR 310. While it is a state owned route for purposes of paving, as a home rule municipality we own the road for all other intents and purposes. I don't want to lose that autonomy because that is what lets us close the road for events like the cookie walk and the street fair.

I appreciate your goal of including secular and non-secular parts to the walk. I love the live nativity and participated in it several times when it was at the Methodist Church. So, I am baffled that 2 churches sitting right on the route have denied the religious part of the walk. Trying to help here, I wonder if Chet's Auto, the entrance to the drive through at the bank, Conaways auto lot, the parking lot next to depot grub, or the area in front of the United Telephone office might be places better suited and on the main routes? These all have the benefit of being privately owned

Still open to questions and brainstorming if you have other ideas.

Sincerely,

Timothy Hickin

City Administrator-City of Pataskala

740-964-2416



MainStreet Christmas <mainstchristmaspataskala@gmail.com>

Aug 20, 2024, 11:11 AM (2 days ago)



to Tim ▾

The UMC was willing to still host it, however the new church doing it is uncomfortable having it in another churches property.

I have explained the situation and asked them to decide if they are willing to compromise.

I was hoping to avoid it being on either side of the street because they want to be open to both red and green stops, but I appreciate your information because I know we have to take it off the table.

I do want to ask what the City's expectation is for us though. I'm not able to control what "characters" or content any stop has, nor do I want to put in writing for public debate that the religious components are not welcome.

...



Tim Hickin

to me ▾

Aug 20, 2024, 1:08 PM (2 days ago)



What happens with the cookie walk at each individual stop is not my concern, nor should it be the city's. The city doesn't put it on so we are not advocating for any religion over another (or none at all). I believe the Lions have the right to decide how each stop is run as they are the organizers. With some limits of course

For the most part limiting religious practices or iconography on our property is a guard against other groups (like hate groups) citing past precedence and then that same choice (the right to decide what is done or placed on our property) is lost.

...