

## FINDLAY CITY COUNCIL MEETING MINUTES - revised

REGULAR SESSION

OCTOBER 6, 2020

COUNCIL CHAMBERS

### ROLL CALL of 2020-2021 Councilmembers:

**PRESENT:** Greeno, Haas, Hellmann, Niemeyer, Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser

**ABSENT:** none

President of Council Harrington opened the meeting with the Pledge of Allegiance followed by a moment of silence.

### ACCEPTANCE/CHANGES TO PREVIOUS CITY COUNCIL MEETING MINUTES:

- Councilman Slough moved to accept the September 15, 2020 Public Hearing meeting minutes to rezone 1028 and 1030 Hurd Avenue via Ordinance No. 2020-102, Councilman Shindledecker seconded the motion. All were in favor. Motion carried. Filed.
- Councilman Slough moved to accept the September 15, 2020 Regular Session City Council meeting minutes, Councilman Palmer seconded the motion. All were in favor. Motion carried. Filed.

### ADD-ON/REPLACEMENT/REMOVAL FROM THE AGENDA:

Councilman Russel moved to add the following to tonight's agenda, seconded by Councilman Greeno. All were in favor. Motion carried. Filed.

#### ADD-ON:

- Letter from Law Director Rasmussen – legal opinion for water meter project **REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS section**
- Ordinance No. 2020-120 – substitute and additional roadway paving (**LEGISLATION section**)

**PROCLAMATIONS:** none

### RECOGNITION/RETIREMENT RESOLUTIONS:

**RESOLUTION NO. 028-2020** (*Jerry Snodgrass recognition*) **requires one (1) reading**

**first reading - adopted**

A RESOLUTION COMMENDING JERRY SNODGRASS FOR HIS PATRIOTISM AND STEADFAST SUPPORT OF VETERANS, SERVICE MEMBERS, STUDENTS AND ATHLETES.

Councilman Slough moved to adopt the Resolution, seconded by Councilman Greeno.

Discussion:

Councilman Russel noted that Mr. Snodgrass had a tremendous impact on countless student athletes in Ohio High Schools, especially Findlay High School which included his son. The work that Mr. Snodgrass did as an Athletic Director and with the Ohio High School Athletic Association in making opportunities happen for student athletes mostly goes unnoticed. Mr. Snodgrass was instrumental in his son being a better student, going to college, and having a Physical Education and Health Teacher career in Colorado. He thanked Mr. Snodgrass for his efforts.

Councilman Wobser noted that he and Mr. Snodgrass worked together at Findlay City Schools. Mr. Snodgrass was a great mentor and Athletic Director who was a supportive figure with a firm hand. Mr. Snodgrass's job was not an easy job. Mr. Snodgrass's predecessor, Nate Weihrauch, who is in the audience tonight, is doing a great job during a very difficult time for Ohio. He appreciates all the time and effort he put into his career and with the City of Findlay, as well as Columbus.

Councilman Shindledecker pointed out that at least two (2) of the nine (9) Councilmember's sons in this room tonight have sons who are athletes at Findlay High School, as well as two (2) Councilmembers themselves were athletes in which Findlay City Council are close to the situation and appreciate what Mr. Snodgrass has done for their children and themselves.

Councilman Palmer noted that he was one of the student athletes at Findlay High School that benefited greatly from Mr. Snodgrass's leadership. It was the best time he had at Findlay High School. He thanked Mr. Snodgrass.

Mayor Muryn thanked Mr. Snodgrass for the impact he had as a leader and promoting community and patriotism in a time when some can lose focus and take for granted all the benefits we have in this wonderful country and how they have been earned. City Council appreciates how Mr. Snodgrass continues to make sure that is at the forefront of everyone's minds and recognize that when spectators settle in to enjoy a sporting event, it is because of all of those who have served our Country each and every day. She recognized and called forward Representative Jon Cross and Senator Rob McColley who each are here on behalf of the State of Ohio, both the Senate and House, as well as Mr. Snodgrass to come forward to accept a number of proclamations and a City of Findlay Resolution. She asked Bob Kroeger in the audience, a legacy life member of the Veterans of Foreign War for twenty-two (22) years and now retired Officer of the United States Navy from Defiance and the National Deputy Chief of the State Staff for the Veterans of Foreign War, if he would like to say a few words.

Mr. Kroeger thanked Mayor Muryn and Findlay City Council for honoring Mr. Snodgrass (aka Coach). He asked for all the Veterans in the room to stand and be recognized. Councilman Haas, Councilman Palmer, Councilman Shindledecker stood, as well as several in the audience. He thanked them for their service and sacrifice. He thanked Senator McColley and Representative Cross for coming tonight to recognize Coach Snodgrass, as well as Findlay High School Athletic Director Wehrauch. It is an honor to represent Commander-in-Chief Harold "Hal" Roesch II of the Veterans of Foreign Wars of the United States of America which headquarters are in Kansas City in presenting special recognition to Jerry "Coach" Snodgrass. His Citation is signed by the Commander-in-Chief Hal Roesch, as well as the Adjutant General Rebin Jones.

Senator McColley, Representative Cross, as well as members of the Veterans of Foreign Wars of the United States, came forward with proclamations and awards to present to Mr. Snodgrass.

Mr. Kroeger introduced his fellow Comrades present with him tonight – District 1 Commander of Post 5645 David Rhodes from Findlay, and Senior Vice Commander of the Department of Ohio Jim Hordinski from North Ridgeville.

Mr. Snodgrass thanked City Council and noted that he is very proud to admit that he has been a citizen of Findlay since he started his professional career. Even during his time in Columbus, one of the best things that he had going for him was that he lived in Findlay for many reasons. He did not just get caught up in what central Ohio was like all the time and saw how real Ohio worked. Having worked for the State of Ohio, he can say that it is good here and anything he could do to promote that, he did. During his time as an Assistant with the Ohio High School Athletic Association as a Commissioner approximately eight (8) years ago, his boss was the best boss he ever had. He did not know what Mr. Snodgrass did, nor did he care what he did. He often did creative and off the wall things, but his assistants didn't mind working with him. He spent forty-three (43) years in education. He is proud of the fact that a number of those years were spent not only in the classroom, but as an extension of the classroom at the fields, courts, pools, mats, etc. where kids play on and where education really takes place. He administrated the sport of basketball where he tried to be creative and somewhat off-the-wall. During his Head Coaching career and as Athletic Director at Findlay High School during the 1990s, there was a student section aka Snod Squad that were part of the evening, part of the educational process in support of not only the teams, but part of the school itself. Student groups were growing all across the state where he followed every one of them via social media. Many schools came up with very creative names for their groups. High school basketball games in the winter had theme nights (i.e. tacky tourist night, Hawaiian night, beach night, farmer night, etc.) where he coordinated efforts of having all schools in Hancock County have one (1) theme night which was military appreciation night. He is still floored to this day how they recognized them, how they did it, etc. He received a phone call from a student asking him what he wanted them to do at that recognition to which he answered he did not want them to do anything, and to do what they wanted to do. It was amazing how it took off which was one of his most proud achievements he has had from his career of encouraging students to ban together and show their appreciation. It was covered nationally and received national recognition, as well as state-wide recognition. Spectrum did a huge segment on it. It was something that embraced kids that he is forever grateful for. Students learned and used the educational process to recognize and thank Veterans to be able to act crazy on Friday nights.

Ayes: Greeno, Haas, Hellmann, Niemeyer, Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser. The Resolution was declared adopted and is recorded in Resolution Volume XXXIV, and is hereby made a part of the record. Filed.

Senator McColley thanked Council for recognizing Mr. Snodgrass for his leadership of OHSAA and also what he did for Veterans. Mr. Snodgrass was in a very unenviable position earlier this year dealing with the winter tournaments and the spring season. Even though he did not want to make the decision, he showed true leadership by making decisions he felt like he had to make given the details and what he knew at the time. Sometimes leaders have to make tough decisions. Senator McColley informed Council what is going on at the State level. It is his hopes that the City of Findlay will be able to put the CARES Act funding that has been funneling to local governments this year to good use on eligible expenses. They would have liked to have distributed it all in one program, but the Treasury Department at the United States Government level did not loosen some of the restrictions so that the State could get the funds out and they were running out of time and wanted to get them out expeditiously.

State Representative Cross informed Council that he and Senator McColley work really well together. Senator McColley is doing an excellent job on the Senate side. They are anxious to get past the election, get back to Columbus and get back to legislating as they have missed a lot of legislative time due to COVID and would like to get a few bills finished. He was with Speaker Cupp last night at an event in Cincinnati where the topic of the Capital Budget came up. It was asked if there will be a Capital Budget. They are looking into that with a recommendation not to fund some of the State or Collegiate programs or University programs and focusing on local projects. They strive to have a great economic impact in the community by having the capacity to fund some of local budgets that the City of Findlay and others around the State have submitted. They will do their best to encourage leadership by determining how much burden they want to take on. That is still in the conversation stage. They will be looking into that, as well as some other legislation. HB 6 is about the Energy Nuclear Policy Bill which is an extremely complicated bill that was extremely complicated to put together. They are looking at repeals, replacements, and reconfigures on it. They are not rushing it because they have to be sure that whatever changes they make do not increase energy costs.

There is a potential of having a two billion three million dollar (\$2,300,000,000.00) increase of energy rates to Findlay, Ohio consumers if they repeal the bill and not do anything. While talking with CEOs of local companies in Findlay, as well as across Ohio, it was stated that energy rates are not competitive and that the economic platform in Findlay is based on good sites and good quality of life, good utility and access to them, and that they need to make sure energy costs are competitive amongst other states to continue to bring business and industry here. Like any issue, they will work through it. He thanked Council for their service. They stay in constant communication with Mayor Muryn and have good working dialog as they work through the legislative process with the hopes of getting past the lame duck and get some thirty (30) days in to finish this general assembly.

**ORAL COMMUNICATIONS:**

**Rodney Seek – 525 & 529 Davis Street rezone via Ordinance No. 2020-113**

Mr. Seek is before City Council about his concerns about the rezoning of 529 and 529 Davis Street. Findlay is special to him because it has amenities of a large city without the problems of a large city. The biggest issue he has is space as Findlay has a large amount of children that run and play, but this proposal will change that. An out of town corporation wants to change property lines so they can build a duplex that will change the current residents' quality of life. It has been difficult for local residents to build a garage or shed in the neighborhood because of watershed issues, but yet this request is for a duplex. As for the quality of life, it is very quiet back there. He lives there. There currently are eight to ten (8-10) cars that use that alley, sometimes more depending on friends and family which is all that alley can accommodate safely. A duplex will also take away an area that kids and adults alike enjoy. An out of town corporation wants to change property lines to build a duplex at a cost to the Findlay property owners as it will add traffic to the alley and will add noise from cars. The danger of someone coming out of his property at 1115 Davis Street and getting hit greatly increases. The danger of someone hitting the building also greatly increases. No one wants to be sitting in their living room and have a vehicle come through their home on an icy day. Since an out of town corporation can change property lines, he assumes local property owners in the alley will be afforded the same opportunities to rezone and build duplexes which could add up to eight (8) or nine (9) more duplexes and raises the car count up to forty plus (40+). Those that are to build this requested duplex is from out of town, so it does not change their quality of life except that the money will be in Findlay. Mr. Seek reverted back to what it will cost the residents of Findlay. That cost can only be guessed right now. Two (2) cars cannot pass in that alley without driving into someone's yard. The alley has to be widened. The problem is where the alley is. According to the survey that the SRC Group provided, the alley is sixteen and a half feet (16.5') wide in which this property goes into the alley. Measuring from that sixteen and a half feet (16.5') out puts a utility pole and a very old tree well into the alley. The pole probably has an easement. The cost to local owners depends on where the alley is.

Parking lots may have to be built and fences may have to be moved, barricades may have to be installed to protect the tenants and building, as well as permits will be needed which are all unknown until it is known where the alley is. He is asking Council to preserve the safety and quality of life in that area by not rezoning these properties. The builder does not live here and does not have to deal with it. He and other residents would have attended the first meeting on this, but did not receive notice until the day of the hearing which listed the incorrect address so he looked at the lot numbers to figure out what properties the notice was for.

**Discussion:**

Councilman Russel pointed out that Mr. Seek mentioned the changing of lot lines, but there has not been any discussions on changing lot lines for this during the PLANNING & ZONING COMMITTEE meeting that he is chairman of. This is a rezone, so there are no changes to lot lines. Mr. Seek replied that it will require taking two (2) lots and incorporating them into one (1). Councilman Russel replied that is not correct. This request is just to rezone the lots. Mr. Seek replied that it will have to straddle two (2) lots to build this duplex. Councilman Russel replied that all that has been dealt with is to rezone it to a M2 district from a R2 district. Mr. Seek replied that the duplexes already in the area sit on individual properties. Councilman Russel replied that is not the case in front of Council tonight. It is a rezone. There is no change to lot lines. Mr. Seek replied that will have to be done when they do what they are planning on doing. He is asking Council not to rezone these properties.

**PETITIONS:** none

**WRITTEN COMMUNICATIONS:**

**Hancock Regional Planning Commission Report – September 16, 2020.** Filed.

**RCM Architects – re-establish non-conforming use for 314 W. Sandusky St**

The undersigned represents Thomas Genzman, the owner of the real property located at 314 West Sandusky Street, Findlay, Ohio. The property in question is a converted single-family residential structure that was used as a non-conforming duplex/triplex (1992-2008) by previous property owners. Around the time of the 2007 flood, the previous property owners ceased using the property as a duplex/triplex, converted it to a single-family home, and its non-conforming use expired. The owner would like to re-establish the non-conforming use of the property. Per Section 1162.09 of the Findlay Zoning Code, the owner would like to re-establish a non-conforming use of the property as a duplex/triplex. Referred to City Planning Commission and Planning & Zoning Committee. Filed.

**REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS:**

**Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control** for Rod & Cynthia Nelson Enterprises LLC, dba The Findlay Social, located at 330 South Blanchard Street, Findlay, Ohio for a D1 liquor permit. This requires a vote of Council.

Robert K. Ring, Chief of Police – Rod & Cynthia Nelson Enterprises LLC, dba The Findlay Social, located at 330 South Blanchard Street, Findlay, Ohio. A check of the records shows no criminal record on the following:

- Cynthia S. Nelson
- Rodney J. Nelson

Councilman Slough moved for no objections be filed, seconded by Councilman Wobser. All were in favor. Filed.

**Police Chief Ring – donation from Findlay American Legion**

The City of Findlay Police Department received a five hundred thirty dollars and twenty-three (\$530.23) check from Findlay American Legion as a charitable donation. The purpose of this donation is to be used to pay for three (3) exterior vest carriers for the detective division. Legislation to appropriate funds from the General Fund to the Police Department safety line item. Ordinance No. 2020-115 was created.

FROM:	General Fund	\$ 530.23
TO:	Police Department #21012000 (212602 Safety)	\$ 530.23

Discussion:

Councilman Russel asked that the letter be read into the record, seconded by Councilman Palmer. All were in favor. The Council Clerk read the letter in its entirety.

Councilman Russel thanked the American Legion for their donation. Filed.

**Safety Director Schmelzer – electric aggregation program renewal**

Findlay’s Electric Aggregation Program, which was voter approved and PUCO certified, is coming due for renewal in March 2021. Independent Energy Consultants (IEC), the consultant chosen by the City, recently solicited proposals from suppliers to ensure a seamless continuation of the Electric Aggregation Program. IEC invited all eligible electric suppliers to submit proposals and received sixty-three (63) offers from eight (8) suppliers (including renewable power offers and rates with civic grants). Every term IEC requested produced rates lower than the program’s current rate, and lower than what residents can get by shopping on their own. Energy Harbor (formerly FirstEnergy Solutions) provided the overall best offer because of their willingness to sign onto a 48-month term, however, Energy Harbor is under scrutiny for payments from the State of Ohio related to their nuclear energy plants.

The Administration has no way of predicting the impact of these legal proceedings. In order to best insulate Findlay residents’ energy costs, it is prudent to consider the offer from Constellation which is slightly lower than the Energy Harbor 36-month term.

A few other notes that are relevant to the City’s program:

- Findlay’s program is entirely voluntary and the offers include no early termination fee, so residents can leave the program at any time for any reason if they choose.
- The base rate for the Constellation 36-month term is \$0.04811/kwh. The civic grant rate is \$0.04861/kwh. The provider would pay the civic grant to the City’s General Fund annually based on \$5/account enrolled (estimated at \$52,000/year based on past program enrollment).
- Base estimates provided by IEC indicate that aggregation will save residents an average of \$103/year with a community savings of over four million dollars (\$400,000,000.00) over the life of a three (3) year term.

Supplier proposals are honored for thirty (30) days and a decision is requested by October 20, 2020. Opt-out letters would be sent in January if a contract is executed. Legislation authorizing the City to enter into an electric aggregation program with either Energy Harbor or Constellation is requested. A pricing comparison is attached. Ordinance No. 2020-116 (Energy Harbor) 2020-117 (Constellation) was created. Filed.

**Mayor Muryn – insurance payment for repair of Sewer Maintenance building**

The City of Findlay submitted a claim to its insurance company for the repair of a Sewer Maintenance building resulting from one of the Sewer Maintenance employees pulling into the building with the debris box up on a vactor truck damaging the top of the building and the overhead door. The City of Findlay received payment from the insurance company in the amount of \$11,388.93 that has been deposited in the Sewer Fund. The City of Findlay is responsible to pay a \$10,000.00 deductible on the claim. Legislation to appropriate funds is requested. Ordinance No. 2020-118 was created.

FROM:	Sewer Fund (insurance proceeds)	\$ 11,388.93
	Sewer Fund (deductible needed)	\$ 10,000.00
TO:	Sewer Maintenance #25048000-other	\$21,388.93

Filed.

**City Planning Commission minutes** – September 10, 2020; **REVISED agenda** – October 8, 2020 (added item #2). Filed.

**Traffic Commission minutes** –September 21, 2020. Filed.

**Findlay Fire Department Activities Report** – September2020. Filed.

**Service Director/Acting City Engineer Thomas – Blanchard River Greenway Trail Extension (PID 106715), Project No. 31980300**

During construction, poor soil conditions were encountered that required additional excavation and additional fill which raised the project cost slightly higher than anticipated. In order to close out the project, an additional \$25,000 is needed to cover the additional cost. Due to the funding sources on this project, the City can request reimbursement of up to eighty percent (80%) of the cost associated with our inspectors performing the inspection on this project. Engineering will be submitting this request with the final payment request when it is submitted to ODOT. The reimbursement request will be for ten thousand three hundred dollars (\$10,300). Legislation to appropriate and transfer funds is requested. Ordinance no. 2020-119 was created.

FROM:	CIT Fund – Capital Improvements Restricted Account	\$ 25,000.00
TO:	Blanchard River Greenway Trail Extension (PID 106715) <i>Project No. 31980300</i>	\$ 25,000.00

Discussion:

Councilman Hellmann asked if the City is eligible for an eighty percent (80%) reimbursement. City Engineer Thomas replied that is correct. All projects that are funded through ODOT that reimburse the City for inspections conducted by City employees are not a one hundred percent (100%) reimbursement, but are eighty percent (80%) reimbursement of the inspection time on the project. Some unforeseen conditions with the soil were found where they had to excavate more causing more stone to be put back, so an additional twenty-five thousand dollars (\$25,000.00) is being asked for this project. The amount that is being asked for reimbursement of the inspection time was ten thousand three hundred dollars (\$10,300.00), so the City will get that money back by applying for it. Councilman Hellmann asked if that refund is only for the inspection time. City Engineer Thomas replied that is correct. Filed.

**Mayor Muryn – Blanchard River Watershed Partnership**

The City of Findlay, with approval of City Council, has made annual contributions of five thousand dollars (\$5,000.00) towards the Blanchard River Watershed Partnership (BRWP) since January 2013. The current agreement ends December 2020. A renewal of the City's commitment of five thousand dollars (\$5,000.00) annually to the Blanchard River Watershed Partnership for the next five (5) years is requested. Filed.

**Mayor Muryn – Revolving Loan Fund Board appointments**

Mayor Muryn is appointing Blair Lane and Joe Mayberry to the Revolving Loan Fund Board. Mr. Lane is filling the unexpired term of Paul Craun, and Mr. Mayberry is filling the unexpired term of Chris Alexander. Their appointments will be effective through December 31, 2021. These appointments require Council confirmation. Councilman Slough moved to accept these appointments, seconded by Councilman Hellmann. Filed.

**Mayor Muryn – Designated Outdoor Refreshment Area (DORA)**

Over the last number of years, the idea of a Designated Outdoor Refreshment Area (DORA) within downtown Findlay has been discussed. DORA's are a designated area within our community where open containers of alcohol are permitted as long as they are in a designated plastic cup.

Goals of the area are:

- Provide flexibility for businesses to allow patrons to wait for a table with a drink outside.
- Allow patrons to travel to or from a downtown business to another. For example, finish a drink from dinner while heading to a show at the Marathon Center for the Performing Arts (MCPA).
- Create an inviting and flexible downtown area.

What a DORA does not do:

- Negate public intoxication laws.
- Negate open container laws for non-authorized containers.
- Cause increase in crime.

Overview of DORA proposal:

- Boundaries: Downtown Findlay Improvement District (from approximately Center Street to Lima Street and then from Putnam Street to Factory Street)
- Hours of operation: 11:00am-11:00pm daily

Discussion:

Councilman Russel noted that the idea of DORA was something that the Downtown Findlay Improvement District has discussed and is in favor of. He asked if Council wants to form an Ad Hoc Committee of Council for this and if so, he asked what Councilmembers would want to volunteer for it or if Council would rather just have legislation for it.

Councilman Wobser replied that this would have been nice to have in place for the beginning of this past summer, especially with COVID. He would like to have an Ad Hoc Committee discuss it.

Mayor Muryn would like to have an Ad Hoc Committee present an application to Council outlining the hours of operation, boundaries and restrictions, sanitation and security plan where no modifications to it can be made until it is voted on. She would like to have some input and discuss a process of how to get public feedback on it. She agreed with Councilman Wobser that it would have been great if it was in place earlier this year which is why she worked with many of the downtown vendors to have sidewalk cafes to be more accommodating. After working through those conversations, it is her hopes that this can move forward to allow the City to work with those businesses long term. She would like to have an Ad Hoc Committee to get some feedback before she proposes legislation.

Councilman Hellmann agreed with Mayor Muryn, Councilman Wobser and Councilman Russel that an Ad Hoc Committee to discuss this is a good idea. He asked what the boundaries of DORA will be. Mayor Muryn replied that will be part of the Ad Hoc Committee's discussion. She would like to keep it consistent with the Downtown Findlay Improvement District because those are the areas that already have a sanitation plan in place that the DFID pays to have a company come through and clean on a regular basis, as well as it accommodates the hotel in that area that she would like to redevelop by the river down to the Performing Arts Center which is already a designated area to allow additional boundaries in that area. She does not want to exclude any downtown business and wants to have it a little more broad than too narrow and revisit it on a case by case basis. That is something that would be discussed in the application process through the Ad Hoc Committee.

Councilman Shindledecker agrees that the area is rather broad which somewhat concerns him, but he is in favor of this project.

Councilman Wobser volunteered to be on the Ad Hoc Committee for this.

Councilman Slough also volunteered.

President of Council Harrington asked Council to show a raising of hands if they would like to volunteer to be on the Ad Hoc Committee for this. Councilman Greeno, Haas, Niemeyer, Palmer, Russel, Shindledecker, Slough, and Wobser raised their hands. Filed.

**City Income Tax Monthly Collection Report** – September 2020. Filed.

**Law Director Rasmussen – legal opinion on water meter project, project no. 35783300**

Law Director Rasmussen has been asked to render his legal opinion regarding the ability to award the Water Meter Project Number 35783300. He has reviewed all relevant bid documents. His opinion is that the Honorable Council of the City of Findlay may proceed to award the Water Meter Project, Project Number 35783300. His response to some of City Auditor Staschiak, as well as some Councilmembers, concerns about the Water Meter Project are:

- The City Engineer failed to notify the Ohio Facilities Construction Commission.
  - Response: that notice is procedural in effect and has nothing to do with the substantive issues regarding this matter. It did not ensure or otherwise guarantee that any specific bidder or bidders would have, or could have, responded to such an inquiry. The City Engineer did advertise in all the usual places and/or publications pursuant to the Ohio Revised Code as it has been done for years. The fact that three (3) qualified firms submitted three (3) quality proposals, together with another firm that declined to submit its proposal, is proof positive that there was adequate public notification of the project.
- Development of actual bids specs.
  - Response: he has reviewed their communications and have discussed the process with both City Engineer (Brian Thomas) and Water Treatment Plant Superintendent (Jason Phillips). It is his opinion that the specs were fairly and appropriately developed and discussed with all parties involved in this process.
- Owners/taxpayers/contractors are all beneficiaries of the competitive bidding laws and protections.
  - The goals of competitive bidding are to ensure that the “public” gets a good contractor for the project, at the best price, and that the process is fair. Whether the bidding was competitive from the bidder’s view point, is not the issue. The issue really is whether the bidding was competitive from the City’s viewpoint so that the public would obtain the lowest and best prices for the project. In his opinion, this was accomplished.

- Rejected bidder seek judicial review of a decision by a public authority pursuant to the bidding statutes.
  - In the unlikely event a rejected bidder would seek judicial review of a decision by a public authority pursuant to the bidding statutes, the Court must apply an “abuse of discretion” standard. In other words, the Court does not substitute its judgement for that of the public authority empowered by statute to make the award. Rather, even if the Court disagrees with the public owners’ decision, it should not disturb that decision unless it finds an “abuse of discretion”. An abuse of discretion means more than a mere error of law or judgment. It means an unreasonable, arbitrary or unconscionable attitude. Arbitrary means without adequate determining principle not governed by any fixed rules or standards. Unreasonable means irrational [Dayton ex rel Scandrick v. McGee (1981), 67 Ohio St.]. In this case, there is no abuse of discretion present.

In other words, regardless of whether the Court would have reached the same conclusion, the Court is limited to determining whether that decision is one that a rational person could have made based on information available at the time. This places a high burden of proof on the bidder challenging the decision. Merely arguing that the public owner weighed the information incorrectly will not suffice to overturn the public owner’s decision.

Finally, and most importantly, the legislative power of each City is vested in and exercised by the legislative authority. If Council votes to proceed with this project, all elected officials and City personnel will be bound by its decision, including the City Auditor.

Law Director Rasmussen’s opinion is that the City of Findlay may proceed to award the Water Meter Replacement Project, Project Number 35783300.

Discussion:

Councilman Greeno asked that the letter be read into the record, seconded by Councilman Palmer. All were in favor. The Council Clerk read the letter in its entirety.

Councilman Greeno asked City Auditor Staschiak if this letter satisfies his criteria for the bidding process. City Auditor Staschiak replied that his responsibility as City Auditor was to view the process and lay out all the issues appropriately in which he has done that. Having raised the issues, he recognized it is the responsibility of the Law Director to review who has since then written his opinion. He will respect the decision having raised the issue. As to the matter in front of Council, he will defer. Councilman Greeno stated that according to the Law Director’s letter (opinion), it is the opinion of the City’s legal counsel that the City can proceed with this project. He is under the impression that the City Auditor still has issues with this project and asked if the City moves forward with this project if it is something that could eventually end up in court. Law Director Rasmussen deferred the question to City Auditor Staschiak to answer. City Auditor Staschiak replied that if Council passes the legislation on this, based on his duties and the Law Director’s opinion, he would sign the legislation Council passes, it would not be any different than any other piece of legislation.

Councilman Palmer asked City Auditor Staschiak if he will be signing a protest letter or if he would have any objections to this. City Auditor Staschiak replied no. Filed.

**COMMITTEE REPORTS:**

The **APPROPRIATIONS COMMITTEE** to whom was referred a request to discuss funding for road paving.

*We recommend and approve the following:*

*6<sup>th</sup> Street:*

1. *Main to the railroad east (out of Street Dept)*
2. *Railroad to Eagle Creek (out of Engineering funds) (Speedway Dr)*

*Stanford Pkwy from Rt 12 to Westfield:*

1. *Approve substitutions as requested by City Engineer.*
2. *Waive formal bidding for all 3 sections.*

Ordinance No. 2020-120 was created.

Councilman Slough moved to adopt the committee report, seconded by Councilman Palmer. All were in favor. Filed.

A **COMMITTEE OF THE WHOLE** meeting was held on Tuesday, September 29, 2020 to discuss the water/meter transmitter project via Ordinance No. 2020-092. The WATER AND SEWER COMMITTEE previously met on July 30, 2020, July 16, 2020, May 21, 2020, and March 11, 2020 to discuss the project.

Discussion held concerning Ordinance No. 2020-092. Further discussion was not requested by Council. Mayor and Auditor disagreed on procedures followed from beginning of project. Ordinance No. 2020-092 was tabled after the third reading during the September 1, 2020 City Council meeting.

Councilman Slough moved to adopt the committee report, seconded by Councilman Hellmann. All were in favor. Filed.

A **COMMITTEE OF THE WHOLE** meeting was held on Wednesday, September 30, 2020 to conduct a pre-budget meeting.

Discussion:

Councilman Russel pointed out that this committee report lists it as a COMMITTEE OF THE WHOLE meeting and asked if it should be listed that way as it was a pre-budget meeting. President of Council Harrington replied that it was a meeting that was requested by the City Auditor with the President of Council officially calling a COMMITTEE OF THE WHOLE meeting. He was unable to attend the meeting, but believes it accomplished what the City Auditor wanted. Councilman Russel noted that it was not announced as a COMMITTEE OF THE WHOLE meeting. Law Director Rasmussen replied that the meeting was advertised and attended by seven (7) Councilmembers. Councilman Russel asked if the wording of the committee report is correct. Law Director Rasmussen replied that as long as the meeting was advertised, it is okay as is.

Councilman Russel moved to adopt the committee report, seconded by Councilman Wobser. All were in favor. Filed.

**LEGISLATION:**

**RESOLUTIONS:**

**RESOLUTION NO. 025-2020** (*E Bigelow Ave annexation – resolution of services*) **requires three (3) readings** **third reading - adopted**

A RESOLUTION STATING WHAT SERVICES THE CITY OF FINDLAY, OHIO, WILL PROVIDE TO THE TERRITORY PROPOSED TO BE ANNEXED TO THE CITY OF FINDLAY, OHIO, SITUATED IN MARION TOWNSHIP, COUNTY OF HANCOCK, STATE OF OHIO, AND BEING A PART OF THE OF SECTION 6 SOUTH, T1N, R11E, A TRACT OF LAND CONSISTING OF 8.584 ACRES OF LAND, MORE OR LESS.

Councilman Slough moved to adopt the Resolution, seconded by Councilman Hellmann.

Discussion:

Councilman Wobser asked Mayor Muryn if the City will have to pay the township for ongoing fees that are required for annexations. Mayor Muryn replied that she looked into it and sent out an email about it. The City will not have any fees because the property owner is the one requesting to be annexed (City is not requesting to annex them in).

Ayes: Haas, Hellmann, Niemeyer, Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno. The Resolution was declared adopted and is recorded in Resolution Volume XXXIV, and is hereby made a part of the record.

**RESOLUTION NO. 028-2020**

See page 1 (RECOGNITION/RETIREMENT RESOLUTIONS section)

**RESOLUTION NO. 029-2020** (*over PO amount*) **requires one (1) reading** **first reading - adopted**

A RESOLUTION APPROVING THE EXPENDITURES MADE BY THE AUDITORS OFFICE ON THE ATTACHED LIST OF VOUCHERS WHICH EITHER EXCEED THE PURCHASE ORDER OR WERE INCURRED WITHOUT A PURCHASE ORDER EXCEEDING THE STATUTORY LIMIT OF THREE THOUSAND DOLLARS (\$3000.00) ALL IN ACCORDANCE WITH OHIO REVISED CODE 5705.41(D).

Councilman Slough moved to adopt the Resolution, seconded by Councilman Greeno Ayes: Hellman, Niemeyer, Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas. The Resolution was declared adopted and is recorded in Resolution Volume XXXIV, and is hereby made a part of the record.

**ORDINANCES:**

**ORDINANCE NO. 2020-092** (*water meter system replacement*) **requires three (3) readings** **tabled after third reading on 9/1/20**

**removed from the table during OLD BUSINESS and adopted**

AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

**ORDINANCE NO. 2020-106** (*Deferred Compensation Plan – Firefighters*) **requires three (3) readings** **second reading**

AN ORDINANCE AUTHORIZING THE MAYOR AND AUDITOR OF THE CITY OF FINDLAY, OHIO, TO EXECUTE ALL DOCUMENTS NECESSARY TO MAKE THE BENEFITS OF THE OHIO ASSOCIATION OF PROFESSIONAL FIREFIGHTERS 457 DEFERRED COMPENSATION PLAN ROTH 457 OPTION AVAILABLE TO ALL FINDLAY FIREFIGHTERS, AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2020-107** (*Deferred Compensation Plan – all City employees*) **required three (3) readings** **second reading**

AN ORDINANCE AUTHORIZING THE MAYOR AND AUDITOR OF THE CITY OF FINDLAY, OHIO, TO EXECUTE ALL DOCUMENTS NECESSARY TO MAKE THE BENEFITS OF THE OHIO PUBLIC EMPLOYEES DEFERRED COMPENSATION PROGRAM ROTH 457 OPTION AVAILABLE TO ALL CITY OF FINDLAY EMPLOYEES, AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.



**ORDINANCE NO. 2020-108** (*annual bids & contracts*) **required three (3) readings** **second reading - adopted**

AN ORDINANCE AUTHORIZING THE MAYOR/ACTING SERVICE DIRECTOR OF THE CITY OF FINDLAY, OHIO, TO ADVERTISE FOR BIDS AND ENTER INTO CONTRACTS, WITH OPTION YEARS, FOR THE PURCHASE OF THE MATERIALS, CHEMICALS, AND SERVICE AGREEMENTS NEEDED BY THE VARIOUS DEPARTMENTS OF THE CITY OF FINDLAY, OHIO COMMENCING JANUARY 1, 2021, AND DECLARING AN EMERGENCY.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its third reading, seconded by Councilman Niemeyer. Ayes: Niemeyer, Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas, Hellmann. The Ordinance received its third reading. Councilman Russel moved to adopt the Ordinance, seconded by Councilman Wobser. Ayes: Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas, Hellmann, Niemeyer. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2020-108 and is hereby made a part of the record.

**ORDINANCE NO. 2020-109** (*ee payroll deductions for HSA*) **requires three (3) readings** **second reading**

AN ORDINANCE AUTHORIZING THE AUDITOR TO MAKE PAYROLL DEDUCTIONS FOR THOSE EMPLOYEES WHO HAVE ELECTED TO ENROLL IN THE HEALTH SAVINGS ACCOUNT (HSA) PLAN AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2020-111** (*6th Capital Improvement appropriation*) **requires three (3) readings** **second reading**

AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

**ORDINANCE NO. 2020-113** (*525 & 529 Davis St rezone*) **requires three (3) readings** **second reading**

AN ORDINANCE AMENDING CHAPTER 1100 ET SEQ OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, KNOWN AS THE ZONING CODE BY REZONING THE FOLLOWING DESCRIBED PROPERTY (REFERRED TO AS 525 AND 529 DAVIS STREET REZONE) WHICH PREVIOUSLY WAS ZONED "R2 SINGLE FAMILY, LOW DENSITY" TO "M2 MULTIPLE FAMILY, HIGH DENSITY".

Second reading of the Ordinance.

**ORDINANCE NO. 2020-114** (*811 Broad Ave vacation*) **requires three (3) readings** **second reading**

AN ORDINANCE VACATING A CERTAIN PORTION OF A CERTAIN ALLEY (HEREINAFTER REFERED TO AS 811 BROAD AVENUE VACATION) IN THE CITY OF FINDLAY, OHIO.

Second reading of the Ordinance.

**ORDINANCE NO. 2020-115** (*donation from Findlay American Legion*) **requires three (3) readings** **first reading - adopted**

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Hellmann. Ayes: Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas, Hellmann, Niemeyer, Palmer. The Ordinance received its second and third readings. Councilman Wobser moved to adopt the Ordinance, seconded by Councilman Greeno. Ayes: Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas, Hellmann, Niemeyer, Palmer, Russel. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2020-115 and is hereby made a part of the record.

**ORDINANCE NO. 2020-116** (*electric aggregation program renewal – Energy Harbor*) **requires three (3) readings** **first reading**

AN EMERGENCY ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO SUPPORT THE CONTINUATION OF A GOVERNMENTAL ELECTRIC AGGREGATION PROGRAM WITH OPT-OUT PROVISIONS PURSUANT TO SECTION 4928.20 OF THE OHIO REVISED CODE (THE "AGGREGATION PROGRAM") DIRECTING THE MAYOR OF THE CITY OF FINDLAY, OHIO TO EXECUTVE AN ELECTRIC SUPPLY AGREEMENT WITH ENERGY HARBOR, AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

**ORDINANCE NO. 2020-117** (*electric aggregation program renewal - Constellation*) **requires three (3) readings** **first reading**

AN EMERGENCY ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO SUPPORT THE CONTINUATION OF A GOVERNMENTAL ELECTRIC AGGREGATION PROGRAM WITH OPT-OUT PROVISIONS PURSUANT TO SECTION 4928.20 OF THE OHIO REVISED CODE (THE "AGGREGATION PROGRAM") DIRECTING THE MAYOR OF THE CITY OF FINDLAY, OHIO TO EXECUTVE AN ELECTRIC SUPPLY AGREEMENT WITH CONSTELLATION, AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

**ORDINANCE NO. 2020-118** (*insurance payment on damaged Sewer Maintenance bldg*) **requires three (3) readings** **first reading - adopted**  
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilman Shindledecker. Ayes: Slough, Warnecke, Wobser, Greeno, Haas, Hellmann, Niemeyer, Palmer, Russel, Shindledecker. The Ordinance received its second and third readings. Councilman Hellmann moved to adopt the Ordinance, seconded by Councilman Wobser. Ayes: Warnecke, Wobser, Greeno, Haas, Hellmann, Niemeyer, Palmer, Russel, Shindledecker, Slough. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2020-118 and is hereby made a part of the record.

**ORDINANCE NO. 2020-119** (*Blanchard River Greenway Trail Extension (PID 106715)*) **requires three (3) readings** **first reading**  
AN ORDINANCE APPROPRIATING AND TRANSFERRING FUNDS, AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

**ORDINANCE NO. 2020-120** (*paving of substitute/additional roadway*) **requires three (3) readings** **first reading**  
**adopted during OLD BUSINESS**

AN ORDINANCE AUTHORIZING THE MAYOR AND/OR CITY ENGINEER OF THE CITY OF FINDLAY, OHIO TO WAIVE FORMAL ADVERTISING AND BIDDING, AND ENTER INTO AN AGREEMENT WITH HELMS & SONS EXCAVATING, FOR THE RESURFACING OF SUBSTITUTE AND ADDITIONAL ROADWAYS WITHIN THE CITY OF FINDLAY, OHIO, AND DECLARING AN EMERGENCY.

**UNFINISHED BUSINESS:**

**OLD BUSINESS:**

Councilman Greeno moved to lift Ordinance No. 2020-092 (*water meter system replacement*) from the table, seconded by Councilman Slough. Ayes: Wobser, Greeno, Haas, Hellmann, Niemeyer, Palmer, Russel, Shindledecker, Slough, Warnecke. Councilman Russel moved to adopt the Ordinance, seconded by Councilman Hellmann.

Discussion:

Councilman Wobser pointed out that there has been a lot of discussion on this and that the timeline and expenditures for this project are on the back of the committee report. The project is just over five million dollars (\$5,000,000.00) total, but when it was originally talked about, it was going to be around fifteen million dollars (\$15,000,000.00). He asked what changed to allow the cost to go down significantly. Mayor Muryn replied that when this project was originally talked about, the transmitter for the entire City was to be replaced which was the transmitters and meters because there had been a number of issues over the past couple of years with previous products so they priced out what is realistic and what is needed at this time and scale it back to what is appropriate, reasonable, and works best in order to be good stewards of the City's finances which is what is in front of Council right now. They have determined what will it will take to be prepared on what will need to be done when 2G fades out by phasing it in now. Costs continue to go up. There currently are a number of transmitters that are not working and need to determine what infrastructure is needed and if the current system needs to be replaced to ensure that the City is operating efficiently and what is needed to upgrade the system in order to operate over the next several years. What is before Council now is what needs to be set up in order to operate in the near future. Councilman Wobser asked if the amount being asked will be spent in the last quarter of this year. Mayor Muryn replied that is the plan.

Councilman Russel noted it was discussed during the WATER AND SEWER COMMITTEE meeting was that the Water/Billing team would be dedicated to installing the transmitters besides their other duties which generated a lot of discussion between the committee on how long it would take to install the transmitters. One thousand (1,000) transmitters were proposed for 2020 in which the committee felt that it would be impossible to install that many yet this year because of what else could happen that is unknown. The committee scaled it down this year to focus on the transmitters that currently are not working and then purchase more to be installed in 2021. An alternative idea was to hire a third party to do the transmitter installations so that City employees could continue to do their daily jobs, but determined it would be too expensive to do and would be better and cheaper to do with in-house labor and recommended to go ahead with legislation. Mayor Muryn agreed that it is not cost-effective to hire outside labor. The City's other Water Departments can also assist with the project while they are out reading meters to determine which ones need replaced. The team is up for the challenge. Councilman Russel noted that they will be targeting the meters that are most difficult to manually read by putting them at the top of the list for replacement.

Ayes: Hellmann, Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas. Abstain: Niemeyer. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2020-092 and is hereby made a part of the record.

City Engineer Thomas asked Council to reconsider Ordinance No. 2020-120 because it does not involve any money and it could move forward while the weather is nice. Councilman Wobser moved to reconsider the Ordinance, seconded by Councilman Shindledecker. Ayes: Niemeyer, Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas, Hellmann. Councilman Slough moved to suspend the statutory rules and give the Ordinance its second and third readings, seconded by Councilwoman Warnecke. Ayes: Palmer, Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas, Hellmann, Niemeyer. The Ordinance received its second and third readings. Councilman Palmer moved to adopt the Ordinance, seconded by Councilman Greeno. Ayes: Russel, Shindledecker, Slough, Warnecke, Wobser, Greeno, Haas, Hellmann, Niemeyer, Palmer. The Ordinance was declared adopted and is recorded in Ordinance Volume XXI, Page 2020-120 and is hereby made a part of the record.

City Auditor Staschiak informed Council that there was an article in the newspaper about CARES Act Funds and that the City is still in the process of working out some issues on whether or not the City can bulk fund its Fire and/or Police services in which Council will need to pass a resolution to meet some of those requirements. Today, he received documents from the Fire Chief on how his personnel has met the criteria for funding in a non-bulk way like what has been done with other departments. The City has not receive the additional one million five hundred thousand plus CARES Act dollars (\$1,500,000.00+) that is expected from the State. The Governor signed that last Friday. It should come from the County sometime next week or so. His office has watched many webinars and has read many legal opinions on the matter and will continue to stay diligent on it. The Governor has signed it and has extended it from October 15<sup>th</sup> to November 20<sup>th</sup>. Councilman Wobser noted that there is now plenty of time to get legislation passed on this. City Auditor Staschiak agreed and noted that it will involve RFQs that he and the Mayor will work through.

#### **NEW BUSINESS:**

Councilman Russel: **PLANNING & ZONING COMMITTEE** meeting on October 8, 2020 at 12:00pm in the first floor Council Chambers of the Municipal Building (CC)

- agenda: 1. 780 6<sup>th</sup> Street rezone
- 2. 314 W Sandusky Street re-establish non-conforming use

Councilman Russel noted that the deadline has passed for those not wanting to have their property rezoned for the mass rezone via the zoning map, so legislation should be coming to Council soon.

President of Council Harrington thanked Mayor Muryn for doing a stellar job on getting the Census to ninety-eight percent (98%) completion. Mayor Muryn informed Council that the Census is still going on until October 31<sup>st</sup>.

Mayor Muryn thanked Council for passing the annual bids legislation. City departments are trying to purchase chemicals ahead appreciate it.

Mayor Muryn informed Council that there was a motorcycle run a couple of weeks ago that was a fundraiser for Toys For Tots of Hancock County and Abate of Ohio. It was organized by Mr. Ed Schetter who requested she thank the City for allowing them to have the run. They raised over twenty-six thousand dollars (\$26,000.00) for Toys For Tots locally which is a great program.

Mayor Muryn pointed out that there are two (2) Ordinances on the agenda for the City's electric aggregation program that one of them needs to be voted down and the other move forward on. She asked that Council review the information and decide which aggregate company they want to go with and pass that Ordinance at the next City Council meeting on October 20, 2020 so the City can lock into those rates. The two (2) aggregate companies are Constellation and the other is Energy Harbor. Energy Harbor was the low bidder by a couple of cents, however, due to it being a First Energy company and their ongoing public controversy, she is recommending the City go with Constellation as Energy Harbor is going through potential legal issues and is unsure what that would look like and being that it is just a couple of cents difference, it would be good to move forward with Constellation.

Mayor Muryn thanked Council for passing the transmitters legislation (Ordinance No. 2020-092). It has been a cumbersome discussion over the last couple of years and was much messier than she would have preferred it to be, but that ultimately, the City has reached its conclusion and that it will be a great benefit to the City and its residents in being able to maintain its infrastructure appropriately. She, the Water Department and the employees understand it is an expensive project, but it is something that needs to be done. She will show Council the benefit it will bring to Findlay citizens.

Mayor Muryn informed Council that the PLANNING & ZONING COMMITTEE will be discussing the changes related to the zoning map update. Over six thousand (6,000) Findlay residents were notified of a zoning recommendation. The Hancock Regional Planning Commission Office fielded over six hundred (600) telephone calls in the month of September related to questions on it resulting in approximately two hundred (200) opt-outs.

Councilman Slough moved to adjourn, seconded by Councilman Palmer. All were in favor. Meeting adjourned at 8:25 pm.

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CLERK OF COUNCIL

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COUNCIL PRESIDENT