

FINDLAY CITY COUNCIL MINUTES

REGULAR SESSION

JANUARY 19, 2016

COUNCIL CHAMBERS

PRESENT: Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser

ABSENT: none.

President J Slough opened the meeting with the Pledge of Allegiance and a moment of silent prayer.

ACCEPTANCE OR CHANGES OF MINUTES AND PUBLIC HEARINGS:

Councilman Harrington moved to accept or changes to the January 5, 2016 Regular Session City Council meeting minutes. Councilman Monday seconded the motion. All were in favor. Motion carried. Filed.

ADD-ON/REPLACEMENT/REMOVAL FROM THE AGENDA:

Councilman Monday moved to add-on/replace the following on tonight's agenda. Councilman Harrington seconded the motion. All were in favor. Motion carried. Filed.

ADD-ONS:

- 113 Hillcrest Avenue rezoning petition (**PETITIONS** section).
- Ordinance No. 2016-012 = HPD grant (**LEGISLATION** section).
- Ordinance No. 2016-013 = (**LEGISLATION** section) amendment to salary ordinance 2015-100 to change the salary range for the Computer Services Manager position. Previously, this was SECTION 2 of Ordinance No. 2016-007.

REPLACEMENTS:

- Ordinance No. 2016-007 (**LEGISLATION** section).
 - Remove SECTION 2 and placing it on a separate ordinance (Ordinance No. 2016-013).
- Ordinance No. 2016-010 (**LEGISLATION** section).
 - Changed fourth (4th) appropriation of \$1,271,000,000 from Capital Improvements - CIT to now be \$791,000.

PROCLAMATIONS: – none.

RECOGNITION/RETIREMENT RESOLUTIONS:

RESOLUTION NO. 007-2016 (*Barbara Larick retirement*)

first reading

adopted

A RESOLUTION COMMENDING BARBARA D. LARICK FOR THE EXCELLENCE OF HER SERVICES TO THE CITY OF FINDLAY, OHIO.

Councilman Harrington moved to adopt the Resolution, seconded by Councilman Russel. Ayes: Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser. The Resolution was declared adopted and is recorded in Resolution Volume XXXIII, and is hereby made a part of the record.

PROCLAMATIONS: - none.

PETITIONS:

Zoning amendment request – North Cory St (Lot 1010; Parcel 600000317710)

Levi Schlumbohm would like to change the zoning to R4 Duplex Triplex High Density. It currently is zoned as R3 Single Family High Density. Referred to City Planning Commission and Planning & Zoning Committee. Filed.

Zoning amendment request – 133 Hillcrest Ave

Phillip Rooney, on behalf of Catherine Mutchler, would like to change the zoning to R1 Single Family Low Density. It currently is zoned as O1 Institutions & Offices.

Discussion:

Councilman Harrington informed Council that this was a former dental office that was converted from a single family a number of years ago. It is now going back to single family which is the logical thing for it to do. Referred to City Planning Commission and Planning & Zoning Committee. Filed.

ORAL COMMUNICATIONS: - none.

WRITTEN COMMUNICATIONS: - none.

REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS:

Precipitation and Reservoir levels report – October-December 2015. Filed.

Findlay Municipal Court Activities Report – December 2015. Filed.

N.E.A.T. Departmental Activity Report – December 2015. Filed.

Findlay Police Department Activities Report – December 2015. Filed.

City Income Tax Monthly Collection Report – December 2015. Filed.

Findlay Fire Department Activities Report – December 2015. Filed.

Public Works Superintendent Matt Stoffel – Hancock Parks grant

The City Parks Department was granted \$4,000.00 in 2015 from the Hancock Parks Grant for work to be done on Riverside Park shelter house roofing in 2016. A transfer of \$4,000.00 from the Hancock Parks grant to the General Fund, project #31956700 for shelter house roof repair is requested. Add-on Ordinance No. 2016-012 was created. Filed.

City Engineer Brian Thomas – ODOT FY17 Resurfacing (PID100181), Project No. 32860600

The City is eligible for Federal Urban Allocation Funds administered through the Ohio Department of Transportation (ODOT). The above – referenced project is eligible for this type of funding. For the past few years, the funds have been used for resurfacing, and funds are planned for resurfacing again in 2017. The project is estimated at \$754,000 with 80% being funded by ODOT and 20% from the City. The City's matching share is included in the 2017 5-year Capital Improvements Plan. Legislation authorizing the Service-Safety Director to enter into the project agreement with ODOT is requested. Resolution No. 009-2019 was created. Filed.

Traffic Commission minutes – November 16, 2015 and December 21, 2015. Filed.

Parks and Recreation Board minutes December 21, 2015. Filed.

Discussion:

Councilman Harrington noted that there was a section in the minutes about hunting at the reservoir. He asked if anyone really hunts there. Service-Safety Director Schmelzer replied they hunt birds. He added that there was some conversation on getting a representative from DNR to attend the next meeting so they can discuss what that looks like, talk about the number of permits that are issued, and have follow up conversation with Jeff Newcomer. Filed.

COMMITTEE REPORTS:

A COMMITTEE OF THE WHOLE meeting was held on Tuesday, January 12, 2016 to discuss the 2016 Capital Plan.

Councilman Monday moved to adopt the committee report. Councilman Shindledecker seconded the motion. All were in favor.

Discussion:

City Auditor Staschiak informed Council that the Auditor's Office is in the process of doing a quick review of the report and the legislation to make sure that no non-capital items are included. There may be some minor tweaks to the final legislation. Filed.

The PLANNING & ZONING COMMITTEE to whom was referred a request from Peterman Associates, Inc. on behalf of the University of Findlay, to vacate the east-west alley adjacent to lots 5854 through 5863 and 5840 through 5849; together with the north-south alley adjacent to lots 5847 and 5848 in the Howard Addition to the City of Findlay.

We recommend to approve as requested. Ordinance No. 2016-008 was created.

Councilman Shindledecker moved to adopt the committee report. Councilman Klein seconded the motion. All were in favor. Filed.

LEGISLATION:

RESOLUTIONS

RESOLUTION NO. 007-2016

See page 1.

RESOLUTION NO. 008-2016 *(no po)*

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 Monday moved to adopt the Resolution, seconded by Councilman Russel. Ayes: Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische. The Resolution was declared adopted and is recorded in Resolution Volume XXXIII, and is hereby made a part of the record.

RESOLUTION NO. 009-2016 *(ODOT FY17 resurfacing project)*

first reading

adopted

A RESOLUTION AUTHORIZING THE SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY TO ENTER INTO AN AGREEMENT OR AGREEMENTS WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) AUTHORIZING THE USE OF FEDERAL URBAN ALLOCATION FUNDS FOR THE FY17 STREET RESURFACING PID100181 - PROJECT NO. 32860600, AND DECLARING AN EMERGENCY.

Councilman Monday moved to suspend the statutory rules and give the Resolution its second and third readings. Seconded by Councilwoman Frische. Ayes: Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische, Harrington. The Resolution received its second and third readings. Councilwoman Frische moved to adopt the Resolution, seconded by Councilman Wobser. Ayes: Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische, Harrington, Hellmann. The Resolution was declared adopted and is recorded in Resolution Volume XXXIII, and is hereby made a part of the record.

ORDINANCES

ORDINANCE NO. 2016-006 *(former Fire Chief severance payout)*

first reading

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

ORDINANCE NO. 2016-007 *(amendment to salary ordinance no 2015-100 – add section 4.1)*

first reading

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CODIFIED ORDINANCE NO. 2015-100 OF THE CITY OF FINDLAY, OHIO KNOWN AS THE SALARY ORDINANCE.

First reading of the Ordinance.

ORDINANCE NO. 2016-008 *(College St/U of F vacation)*

first reading

AN ORDINANCE VACATING A CERTAIN ALLEY (HEREINAFTER REFERED TO AS (UNIVERSITY OF FINDLAY COLLEGE STREET VACATION) IN THE CITY OF FINDLAY, OHIO.

First reading of the Ordinance.

ORDINANCE NO. 2016-009 *(Parks & Rec Board – change Council Rep from 1 to 2)*

first reading

adopted

AN ORDINANCE AMENDING CHAPTER 145.02 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, AND DECLARING AN EMERGENCY.

Councilman Monday moved to suspend the statutory rules and give the Ordinance its second and third readings. Seconded by Councilman Klein. Ayes: Monday, Niemeyer, Russel, Shindledecker, Wobser, Frische, Harrington, Hellmann, Klein. Nays: Watson. The ordinance received its second and third readings. Councilman Harrington moved to adopt the Ordinance, seconded by Councilman Russel.

Discussion:

Councilwoman Frische asked why two (2) Councilmembers are needed for this Board. Councilman Russel replied so that the Board has an odd number of Board members. Also, when they had their committee assignment meeting, Parks and Recreation Board was the second most requested committee assignment. The committee thought it was important to have two (2) representatives on the Board to show the importance that Council places in the Parks and in Recreation. Parks and Recreation become more and more important to communities to attract or retain citizens and/or employees for corporations. Having two (2) members on the Board reflects that. Councilwoman Frische then asked why there isn't one (1) voting member and one (1) appointed member. Councilman Russel replied that was not considered. With only one (1) member as it currently exists, the Parks and Recreation Board has a ten (10) person board.

Councilman Harrington noted that in the Parks and Recreation Board minutes, it states they are doing an assessment study. Part of that assessment is going to top employers in our community. It is asking individuals what they expect our city to give them in the way of recreation. If we as a body can help that process along, we should do so.

Ayes: Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2016-009 and is hereby made a part of the record.

ORDINANCE NO. 2016-010 (2016 Capital Improvements)

first reading

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO, TO ADVERTISE FOR BIDS WHERE REQUIRED AND ENTER INTO A CONTRACT OR CONTRACTS FOR CONSTRUCTION OF VARIOUS PROJECTS IN ACCORDANCE WITH THE 2016 DEPARTMENT EQUIPMENT LIST WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT A, APPROPRIATING FUNDS FOR SAID CAPITAL EXPENDITURES, AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

ORDINANCE NO. 2016-011 (2016 construction projects)

first reading

adopted

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO, TO ADVERTISE FOR BIDS WHERE REQUIRED AND ENTER INTO A CONTRACT OR CONTRACTS FOR CONSTRUCTION OF VARIOUS PROJECTS, APPROPRIATING FUNDS FOR SAID PROJECTS, AND DECLARING AN EMERGENCY.

Councilman Klein moved to suspend the statutory rules and give the Ordinance its second and third readings. Seconded by Councilman Monday. Ayes: Russel, Shindledecker, Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer. The ordinance received its second and third readings. Councilman Klein moved to adopt the Ordinance, seconded by Councilman Harrington. Ayes: Shindledecker, Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2016-011 and is hereby made a part of the record.

ORDINANCE NO. 2016-012 (Hancock Parks District grant)

first reading

adopted during Old Business

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

ORDINANCE NO. 2016-013

first reading

adopted

(amendment to salary ordinance no 2015-100 = lower minimum salary range for Computer Services Manager position)

AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CODIFIED ORDINANCE NO. 2015-100 OF THE CITY OF FINDLAY, OHIO KNOWN AS THE SALARY ORDINANCE, AND DECLARING AN EMERGENCY.

Councilman Monday moved to suspend the statutory rules and give the Ordinance its second and third readings. Seconded by Councilman Klein. Ayes: Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker. The ordinance received its second and third readings. Councilman Harrington moved to adopt the Ordinance, seconded by Councilman Klein.

Discussion:

Councilwoman Frische asked for an explanation of why this ordinance is reducing the job classification minimum for Computer Services Manager from \$2,626.40 to \$2,400.00. Service-Safety Director Schmelzer replied that the \$2,626.40 minimum was for a previous employee who had management experience. The individual who is filling this position now has the technical skills but has not managed people. It was decided during discussions to lower that amount. At such point in time he has proven those capabilities, we will take a look at the range again then.

Ayes: Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2016-013 and is hereby made a part of the record.

**UNFINISHED BUSINESS:
OLD BUSINESS**

Councilman Harrington asked the status of the open checkbook. During the last quarter of last year, it was talked about joining that group. No timeline was set up, but enough time has gone by now to consider it. City Auditor Staschiak replied that during his last contact with the State Office, he was told his contact would look into what policies other entities similar to ours have in place for how that information will be disclosed. He has not heard back from him yet. He will follow up with him within the next couple of weeks. The communications have been wonderful. The State does not plan on allowing for links to information that is being provided by a third party software solutions group that may already be in place or may have different reasons that other entities are using which forces us to take a little longer to get to it. His office has every intention of doing it, but cannot do it until it is ready to be done so that the information can be properly embedded. His office is closing December and has just finished a huge budget process and is two (2) months early in working with the State Auditor's Office on our budget. His office has prioritized things properly to get the things done that need to be done. Not only have those things been going on, but per the email he sent out a few months ago, they also did a full computer system upgrade that included almost seven hundred (700) patches that hadn't been put in place over the prior year from the City's Computer Services Department because of the obligations they have. They have also upgraded the MUNIS system to where it is capable of doing what we need it to do. They have also done a full server migration. Those very high priority critical functions were done to keep the City's finances moving forward. The first part of this year, they will put the schedule together for getting the checkbook done. As he mentioned months ago, his department is committed to doing this and doing it properly. They will not just release information and take a risk of releasing information that they shouldn't or can't release. Councilman Harrington added that his wife is the Treasurer of Defiance City Schools. Their open checkbook only took thirty (30) days. City Auditor Staschiak replied this is not an apples to apples comparison. He welcomed Councilman Harrington to come to his office as his door is always open and he can explain the things his office is doing, move forward and get things done. Councilman Harrington noted that it is not a priority for him, but is a priority for the citizens of Findlay that there is an open checkbook that the transparency of our community's finances can and should be available. This is a way to do that, so he feels it should be a priority. City Auditor Staschiak agreed which is why they put Council's full budget and all the financial statements online. Every financial presentation he makes to Council is put online. What Findlay has available to other cities around the state is first class and readily available as long as the website is working, but it exceeds with what the majority of cities around the state are putting out, particularly cities our size. Councilman Harrington asked if he is correct that it will be available by the end of the first quarter this year. City Auditor Staschiak replied that by the end of the first quarter, they should have the schedule put together to complete it. He will bring a policy to Council for input to make sure Council is comfortable with how they are approaching certain things, and so there is an understanding what records are available and what can or cannot be put out there. Councilman Wobser noted that the fact that this information is being put online is great from the transparency standpoint, but at the same time, it needs to be done not half-heartedly. Time needs to be taken to get it done properly. Priority needs to be taken, but should not be rushed where mistakes can be made. Councilwoman Frische asked if the County has gone online for their open checkbook. City Auditor Staschiak replied they have not.

Councilman Watson noted that on previous salary ordinances, there was verbiage on eight percent (8%), so that language is not new when looking back at previous history. Councilman Klein asked if Ordinance No. 2016-007 deals with wage increases for elected officials or non-elected officials. Ordinance No. 2015-100 that it amends does not have anything to do with elected officials. It is for non-elected officials. Service-Safety Director Schmelzer replied that if Council is going to give subsequent readings to Ordinance No. 2016-007, it might be worth discussion. It might be worth taking a look at what the prior language was in the ordinance. It had to do with individuals that were hired or promoted and placed into a range and then the subsequent review of the salary after that appointment was made. That is a significant difference between what is before Council tonight. He encouraged Council to take a look at the language further and decide if that is the way they want to go. He does not think it is very function as it is written. He would be happy to talk about it further with anyone or at a subsequent meeting. Councilwoman Frische noted that Councilman Watson came up with a good idea after the first City Council meeting this year (last meeting) and contacted her to try to figure out a way to clear any miscommunication in the future when passing a budget. She brought to his attention that there was an eight percent (8%) in the previous ordinance and in several of the previous ordinances, but when the salary ordinance was changed this last time on December 15, 2015, the entire paragraph was removed and she is not sure why. The four percent (4%) is for salaried employees with pay ranges is what Councilman Watson is looking at, and she seconded his motion to get legislation written by the Law Director. She is unsure if the Law Director talked with Councilman Watson to get a better understanding of what he is looking for in the ordinance, but it is for the salary ranges and putting that paragraph back in that was taken out because it used to be an eight percent (8%) cap with anything over that, Council needed to approve. Councilman Klein replied that what Councilwoman Frische is talking about is for non-elected officials and that is not what this is. This is for elected officials. Councilwoman Frische feels the ordinance needs to be modified and the Law Director communicate with Councilman Watson on his request to clarify it. It was for the salaried employees and was eight percent (8%) for many years, but was removed on December 15, 2015 via Ordinance No. 2015-100 with a sudden change in the budget which is what Councilman Watson is trying to fix. He is not trying to take anything away from the Service-Safety Director that got approved. He is just trying to gain back some control of the purse strings with City Council. She suggested it go to a Committee of the Whole for discussion so that Councilman Watson and Law Director Rasmussen can get a better clarification on the verbiage being collected on what Councilman Watson has requested. Councilman Klein then asked if this has anything to do with elected officials. Councilwoman Frische replied it is for salary ranged employees. Councilman Watson added that his request was for the Administrative side. Service-Safety Director Schmelzer asked if Council's objective is to reinstate the prior language as it was written in the prior ordinance. Councilman Watson replied he would like to have that language prior to the second reading of this Ordinance. Eight percent (8%) was a historical number. He just came up with four percent (4%) thinking it was more reasonable when talking about increases that Council should at least discuss it. Councilman Russel asked if the discussion would be about salary ranges that Council consider in the Salary Ordinance. If the salary range is in the Salary Ordinance, and Council approves the ordinance, the process of approving a salary ordinance is for Council to give their approval. Discussions are made during the process of consideration of the Salary Ordinance. Does this ordinance need to be passed now and then tell themselves that it was passed so they can approve it. He is confused to the intent because that is what the Salary Ordinance is for. Council is made aware of the salary range changes as it was specifically discussed during a Committee of the Whole meeting about changing the salary ranges for the Service-Safety Director and the Human Resources Director, so he is unsure why any Councilmember is surprised if someone is paid in that range. There is no confusion on his part. He does not understand the need for Ordinance No. 2016-007 and does not understand the confusion in this entire matter. Councilman Watson replied his intent is not to target the ranges, but to target any increases within those ranges that are more than four percent (4%). Councilman Wobser noted that the original language of eight percent (8%) was taken out at some point in time. He asked why it was taken out. Service-Safety Director Schmelzer replied that there was an issue with two (2) individuals who they would have had issues with if they would not have agreed to work for that eight percent (8%). Management positions and the ranges and salaries associated with them are what is agreed to and the Administration works within a budget. It hampers the Administration somewhat with some positions that are relatively hard to compete with if they are to deal with an eight percent (8%) range which is why it was taken out. It is a decision for the Administration as Council passes the budget and tells the Administration to get the job done so they have to make personnel decisions associated with that. If Council feels the language needs to be put back in, he is willing to do so. He is unclear to the intent regarding the request. It had some ramifications for the Administration in conversations they had with staff. The Administration ended up talking with the two (2) individuals about staying on and doing something over multiple years. Councilman Wobser then asked if he understands correctly that the Administration had a situation while negotiating with an employee that would have gotten greater than eight percent (8%) increase, and if it had gone to Council, it would have somehow hampered the conversation. Service-Safety Director Schmelzer replied more so from the employee's perspective. Councilwoman Frische asked if that employee did not want the opportunity to get more than eight percent (8%) increase if Council approved it. Service-Safety Director Schmelzer replied that the Administration laid out for them what the process looked like saying this is what they could do in which they replied they would live with it for this year and then the next year, they would be within the eight percent (8%). It has happened to the Administration more than once. The Administration has worked within the rules, not necessarily agreeing with them, but will continue to do so if Council feels it is vital to operate that way. Mayor Mihalik added that this situation happens when an hourly employee is promoted to management or a supervisory role to fit into one of the professional classifications. When they are moved into their new role, they become appointed (no longer have Civil Service protection), are not eligible for overtime, so they miss out on the opportunity to generate income for their family via overtime, and possibly could not have a job depending on the situation. The Administration is trying to operate within the constraints that they have. Government is in the business of people, so it is of their concern to have the most qualified individuals in positions who are dedicated to the City, and not just because they feel like it is the right thing to do, but because they are good at what they do, they are competitive, and are wanted here. The Administration wants to make sure they can compensate them properly. Councilwoman Frische noted that the ordinance was not to hinder on being able to hire an employee, it is to have better communication with Council to approve a higher change. Ordinance No. 2016-007 was created when the Mayor made the budget change at the last City Council meeting, and removed the eight percent (8%) out completely giving a free range for a twenty-two percent (22%) salary increase to the Service-Safety Director. After the last City Council meeting, Councilman Watson wanted to improve the process of salary increases. His idea was to have more control of bigger changes which is why/how he came up with four percent (4%) which may need to be discussed more and/or possibly go back to eight percent (8%), or maybe some other verbiage is needed. Councilman Hellmann asked if this is going to a committee for discussion. Council President Slough replied that as of now it is not. It is at four percent (4%) as of now. There are two (2) more readings on the ordinance before it is adopted, so opportunities for changes can be made between now and then. Councilman Hellmann does not think any Councilmember wants to micromanage the Administration. As long as they are living within the ranges and was within the eight percent (8%) rule, he does not have a problem with it. Four percent (4%) is too restrictive.

Councilman Wobser asked how this Council can pass Ordinance No. 2016-006 when three (3) committee members have not been involved in any of the proceedings prior to this time. He asked if it should have died with the last Council. Law Director Rasmussen replied it does not die with the last Council because Council approved it and was a negotiated arrangement. The negotiation and agreement all occurred last year only the payment was put off until this year. Councilman Wobser asked who approved it. Law Director Rasmussen replied it was the previous Council. Councilman Wobser noted that even though the last Council approved it, this Council is who has to give the money up. Law Director Rasmussen replied that is correct. It would have died if all the contract requirements had not been met in a particular year or if the vote went past the first of the year without Council approval but the ordinance was approved by Council. The only reason we have the appropriation before you now is because it was not put into the original budget. In addition there was no referendum on the ordinance and all ordinances enjoy a presumption of validity. Councilwoman Frische asked if a contract was signed by former Fire Chief Lonyo for this dollar amount. Law Director Rasmussen replied it was negotiated and an agreement reached. Councilwoman Frische then asked if something was signed by Council and by former Fire Chief Lonyo. Law Director Rasmussen replied no, there was an agreement made by Council that Councilwoman Frische did not support, but Council was in agreement. Councilwoman Frische asked if that was an ordinance where Mr. Lonyo did not want payment until 2016. Law Director Rasmussen replied that is correct. Rasmussen noted that this matter took months for Council to resolve. Councilwoman Frische then asked how three (3) new Councilmembers could vote on something that they had no knowledge or information of prior to today. Law Director Rasmussen replied that the (3) new Councilmembers do not have to vote on it if they choose not to or if they need additional information. Councilwoman Frische then asked why there is an ordinance if Council does not have to vote on it. Law Director Rasmussen replied because the monies necessary for the payment were inadvertently left out of the budget. Besides, there are numerous contracts that the City enters into in a calendar year (i.e. 2015) which are payable the next year during a new Council term (i.e. rock salt), we would be breaching that agreement which might result in the City being sued. If the ordinance authorizing the agreement and expenditure of funds had not gotten passed before the end of the year it would be different. Councilman Wobser asked why Councilmembers do not have to vote on this. Law Director Rasmussen replied that if a Councilmember does not want to vote on it, they don't have to. It is Council that approves it. If a Councilmember does not want to vote on the issue, they do not have to. Councilwoman Frische asked if abstaining is considered a no vote. Law Director Rasmussen replied that abstaining is a no vote, not a "no" or "nay" vote. City Auditor Staschiak asked if it was a contract or a verbal agreement with Mr. Lonyo. He is under the impression that we could not enter into a contract without a certification of funds from his office. Law Director Rasmussen replied it is a verbal agreement. Councilman Watson asked what the consequences would be of not adopting this ordinance for payment. Law Director Rasmussen replied then we won't have the money to pay it and most likely, Mr. Lonyo will go to court and it will have to be dealt with there. Councilman Wobser asked if this is the first time something like this has gone to court. Law Director Rasmussen replied it is of this type of issue. The last time, it was a mandamus action which was ruled improper by the Court because Mandamus is a remedy of last resort and is not available if another remedy in law or equity is available. Most likely, it would be a civil lawsuit.

Councilman Shindledecker: **STREETS, SIDEWALKS & PARKING COMMITTEE** meeting on January 26, 2016 at 4:30pm in the Council Office, first floor of the Municipal Building (CO).

agenda: 1. 407 & 409 E Hobart Ave sidewalk variance

Councilwoman Frische made a motion to suspend the statutory rules and give Ordinance No. 2015-012 its second and third readings. Councilman Harrington seconded the motion. Ayes: Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser. The ordinance received its second and third readings. Councilman Harrington moved to adopt the ordinance. Councilwoman Frische seconded the motion. Ayes: Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2016-012 and is hereby made a part of the record.

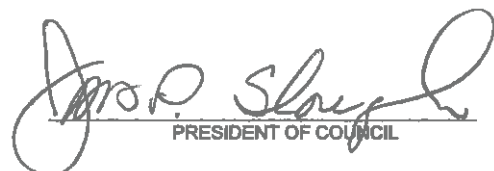
Councilwoman Frische asked what changed on the replacement for Ordinance No. 2016-010. Service-Safety Director Schmelzer replied the \$500,000 for the Fiber Loop project was reduced to \$20,000 for start-up funds. He is still in the process of getting the information from the consultant pursuant to Councilman Watson's request regarding the City funding its own core. Councilwoman Frische asked if it was just an adding error. Service-Safety Director Schmelzer replied yes it was an error on the total amount.

NEW BUSINESS

Councilman Klein noted that since the capital improvement announcement, he has received a couple of phone calls from constituents about Park Street needing repairs. It was looked at years ago but nothing was done because of historical purposes, but it is now in dire need of repair. He asked what the best way to go back to this is. He would like to find out who is in support of it and where it can be put in the plans. Councilman Harrington added that it has been about five (5) years since the Hancock Park District was located there which is why he feels the historical look about it with the bricks instead of the paving is there. Many motorists avoid the area at all cost.

President J. Slough adjourned Council at 8:22pm.


CLERK OF COUNCIL


PRESIDENT OF COUNCIL