

FINDLAY CITY COUNCIL MINUTES

REGULAR SESSION

FEBRUARY 2, 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 19, 2016 Regular Session City Council meeting minutes. Councilman Niemeyer seconded the motion. All were in favor. Motion carried. Filed.

ADD-ON/REPLACEMENT/REMOVAL FROM THE AGENDA:

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

REPLACEMENTS:

- Ordinance No. 2015-007 AS AMENDED (**LEGISLATION** section).

PROCLAMATIONS: – none.

RECOGNITION/RETIREMENT RESOLUTIONS: - none.

PROCLAMATIONS: - none.

PETITIONS:

South Main Street Right-Of-Way vacation request – Marathon Petroleum Company hotel

Daniel Stone, Van Horn, Hoover & Associates, Inc., on behalf of Marathon Petroleum Company, LP, is requesting a portion of right-of-way vacation for the east 18.8 feet of South main Street from East Lincoln Street to a point 267' north of East Lincoln Street. Referred to City Planning Commission and Planning & Zoning Committee.

WRITTEN COMMUNICATIONS: - none.

ORAL COMMUNICATIONS:

George Walton, President and CEO of Hancock-Wood Electric Cooperative – modification to Franchise Agreement

Hancock-Wood Electric Cooperative has been placed on the agenda for the February 2, 2016 Findlay City Council meeting to briefly discuss their long-time franchise agreement with the City of Findlay, and to request scheduling a Council Committee of the Whole meeting to clarify and request modifications to the co-op's existing Territorial Franchise Agreement with Findlay.

Since 1965, Hancock-Wood Electric Cooperative Inc. has played a key role in improving the quality of life for more than 5,000 commercial and residential members doing business and residing in the City of Findlay and surrounding communities.

Economic growth in Findlay has been strongly supported by their cooperative through substantial investments (more than \$7 million since 2011) in electrical infrastructure to support existing and future commercial and residential electric service in our territory within the City.

Hancock-Wood also is a major contributor to programs benefitting Findlay residents and businesses, including recent donations such as - \$25,000 to the Marathon Center for the Performing Arts; \$20,000 for a generator for the Camp Berry Boy Scouts; \$10,000 for Habitat for Humanity of Hancock County; \$10,000 for Hancock County Fairgrounds, and more than \$10,000 in donations and grants to local charitable organizations and needy individuals. This is part of one of their abiding cooperative principles – Concern for Community.

HWE stands by our community, but needs our help to sustain these quality of life and community-support initiatives. They are requesting Council to consider making modifications to Hancock-Wood's March 1989 franchise agreement to clarify that the Ohio's Territories for Electric Suppliers Act remains the basis of how this agreement is applied within the City and ensure that it continues to be honored by both Hancock-Wood and Ohio Power (American Electric Power or AEP). A map highlighting both Hancock-Wood's and Ohio Power's service territories that lies within the City of Findlay.

Discussion:

Councilman Wobser asked if HWE's Territorial Agreement was infringed upon by the Romark expansion. Mr. Walton replied that it was not by the Romark expansion, but was by Ohio Power for Romark. Councilman Wobser asked how that happened if HWE had the agreement. Mr. Walton replied that HWE's Territorial Franchise Agreement is a non-exclusive franchise. Ohio Power's has a Municipal Franchise Agreement that overlaps HWE's franchise. Ohio Power has never encroached within HWE's service territory, but in this situation, they did because HWE was not close enough to serve them without having to extend further and Ohio Power had facilities right there. It was one incidence because there was nothing there. Also, Ohio Power is taking a corporate position. HWE found this out when they met with their General Counsel to utilize their community-wide franchise and go over into their territory within a municipality to take only the loads (commercial or residential accounts) which are attractive and provide a good return. He was told by Ohio Power's Corporate business contact that if it makes sense from a financial position, then they will take it. If it does not, they will leave it alone. HWE's position is that they have already made those investments in the substations and distribution facilities. HWE has invested over seven million dollars (\$7,000,000.00) over the past five (5) or six (6) years in distribution facilities on the east side of Findlay. They currently are making investments to put in Distribution Automation

Systems which will provide very good services. HWE will lose the transmission to the substation that they carry remotely to transfer a load without sending anyone out onto alternate circuits. No other utility in Findlay has that capability, including Ohio Power. HWE has shared this with some Councilmembers that they have met with prior to tonight. He welcomed Council to come to HWE's facility to see these capabilities. They are non-profit. They only reason they are making these investments is for service. They make sure they provide excellent service and are compatible. With the Romark load, the only reason HWE was not compatible was because of their location, so they extended service on the rates side. Romark provided HWE with twelve (12) months' worth of electric bills from Ohio Power for a cylinder-type facility (they always ask for that when they design services into the facility). Mr. Walton did the analysis for it (he shared it with Mayor Mihalik) and was approximately one thousand dollars (\$1,000.00) dollars cheaper per month. The load happened to fail because there were no facilities. Councilman Wobser asked the Law Director if there has been any legislation since the original Franchise Agreement was put together that altered the agreement. Law Director Rasmussen replied that the legislation was created prior. Ohio Revised Code has territories defined and distribution has to be within the territory. The difference between the franchises is that there are no mention of territories in the Ohio Power one, but is a territorial limit in the Hancock-Wood Electric Franchise Agreement. It is his assumption that they have all the rights to enforce through the Ohio Revised Code. He suggested they pursue that. Councilman Wobser then asked the Law Director if he is aware of anything that Council would have done to have changed it. Law Director Rasmussen replied no. He believes the last update was in 2009. The only difference in the language was that it was a territorial. He is unsure if the former Law Director or HWE prepared the document language. Mr. Walton added that under State Territorial Law, anywhere outside of the municipality, each utility cannot go into each other's territory. It is against the law under statute. Inside of the municipality, municipalities have certain rights. They can do one of two things: operate their own electric system within their municipality or they can issue franchises to multiple entities to come in and provide the distribution, electricity for the businesses and citizens of Findlay. In Findlay's case, Findlay chose the franchise which is why Ohio Power and Hancock Wood provide services within the boundaries. Bowling Green operates their own electric system. They have their own crews and own electric system that they manage and operate for their citizens.

Councilwoman Frische asked Mr. Walton what he would like Council to do for HWE. She asked if it is legislation the City has with Ohio Power that gives them the agreement in the municipality. Mr. Walton replied it is a Franchise Agreement. Law Director Rasmussen added that it is a Franchise Agreement that was adopted by legislation. Councilwoman Frische asked HWE if they would like Council to reconsider the legislation that is in place to be within a municipality and everyone go back to their D Regulation and stay within their territory and conduct business. Mr. Walton replied that all HWE is interested in is to finish serving the territory that is within the territorial map which overlaps in the City of Findlay to serve their territory. HWE only has a small portion of Findlay. He would like to change the language in the existing Franchise Agreement that links the HWE franchise to the Territorial State Law which is what happens outside of a municipality. There are many reasons why they are asking for this. Cities do not want duplication of services (i.e. poles, lines, etc). When it comes time for outage restoration, HWE knows what to do outside of a municipality that is not de-regulating a distribution system. They know which facilities are theirs. When it comes to long-term planning, HWE does not just build facilities with the capacity to serve existing loads, they do long-term planning anticipating growth within their service territory. They have to make those investments well ahead of a new load coming in. They have to build capacity in their substations, their lines, etc. They start de-regulating the distribution system. No one else in the state has done this. By de-regulating it, it will put utilities in the position to plan. They know they have a certain amount of territory, so they can plan for that from the poles and wires. If they do not have any reassurance that it is their territory that they can serve, it makes it difficult to do any long-term planning which benefits the City. When loads come in, HWE has the capacity to be able to serve those loads. All the investments that HWE is placing into their distribution automation system drops outages substantially. HWE's board has already made that commitment to move forward with this. They are over fifty percent (50%) done with it. They will have the technological ability to be able to take what would have been considered to be a two-hour outage in the past and reduce it down to thirty (30) minutes or less. Loads are picked up from three (3) other substations remotely from home. HWE is planning to benefit with the economic development movement within Findlay, but if the Franchise Agreement pulls the rug from up under them, it will create a strained investment for them.

Councilman Russel requested a Committee of the Whole meeting to discuss this further. Councilman Klein seconded the motion. All were in favor. Filed.

REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS:

Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control for Ottawa Oil Company Incorporated, located at 1100 Trenton Avenue, Findlay, Ohio for a C1 liquor permit. This requires a vote of Council.

Gregory R. Home, Chief of Police – Ottawa Oil Company Incorporated, located at 1100 Trenton Avenue, Findlay, Ohio. A check of the records shows no criminal record on the following:

Tom Stechschulte
Kevin Ellerbrock
Rick Stechschulte
Kay E. Burkholder
Dale Druse
Janel Kruse

Councilman Harrington moved for no objections be filed. Seconded by Councilman Klein. 9 Council members in favor, 1 opposed. Filed.

Service-Safety Director Schmelzer – vehicle insurance payment

The City has received payment for the repair of a Police Department vehicle from an accident from the other party's insurance company in the amount of \$2,341.67. It has been deposited in the General Fund. An appropriation of funds is requested. Ordinance No. 2016-014 was created.

FROM : General Fund \$ 2,341.67
TO: Police Department #21012000-other \$ 2,341.67

Filed.

Findlay Fire Department Chief Josh Eberle – Pearl Konersman memorial donations

On behalf of the Findlay Fire Department and the Findlay Firefighters, Chief Eberle wishes to thank Steve and Holly Perkins, Sam and Jamie Huntington, and Dennis and Elizabeth Swecker for their generous donations to the Findlay Fire Department. The Fire Department's long-time Secretary Pearl Konersman passed away in January and these individuals donated a combined amount of three hundred thirty-five dollars (\$335.00) to the Fire Department on her behalf.

The Fire Department, in cooperation with Findlay Firefighters Local 381, operates a smoke detector program that aims to provide city residents with smoke detectors at no cost. The money donation on behalf of the Pearl Konersman memorial will assist the Findlay Fire Department in this endeavor and will be used to purchase smoke detectors which will increase safety for area residents. Reallocation of funds is requested. Ordinance No. 2016-014 was created.

FROM: General Fund	\$ 335.00
TO: Fire Department #21014000-other	\$ 335.00

Discussion:

Councilman Russel requested the letter be read in full. The Council Clerk read the letter in its entirety. He asked how long ago Pearl retired. There was no replies to Councilman Russel's question as no one knew the answer. Filed.

Findlay W.O.R.C. Financial Analysis Report – January 1, 2015 through December 31, 2015. Filed.

Traffic Commission minutes – January 19, 2016. Filed.

Treasurer's Reconciliation Report - December 31, 2015. Filed.

Mayor Lydia Mihalik – Appointment to Local Board of Tax Review

Pursuant to 718.11 of the Ohio Revised Code, Mayor Mihalik is appointing John W. Pinski Jr., CPA to the Local board of Tax Review for the City of Findlay. Mr. Pinski has expressed a desire and willingness to serve the community in this capacity. This is a two (2) year renewable term. This appointment does not require confirmation by Council.

Discussion:

Councilman Wobser asked what the effective dates of these appointments are. Mayor Mihalik replied January 1, 2016. Filed.

Service-Safety Director Paul Schmelzer – Downtown Revitalization, Project No. 31942400; HAN-Findlay Main St/Cory St, ODOT PID #98797

With the adoption of Resolution No. 015-2014, an application for funding was submitted to the Ohio Department of Transportation (ODOT) for Federal Transportation Alternatives Program (TAP) funds. The City has received approval of the funding from ODOT.

TAP funds require a twenty percent (20%) match to ODOT's eighty percent (80%) of the construction cost. The current project construction estimate is \$3,514,000. The City's matching share of \$250,000 along with Marathon's contribution of \$452,800 is included in the 2017 five (5) year Capital Improvements Plan. Legislation authorizing the Service-Safety to enter into the project agreement with ODOT is requested. Resolution No. 011-2016 was created.

Discussion:

Councilman Wobser requested the letter be read in full. The Council Clerk read the letter in its entirety.

Councilwoman Frische asked if this project is broken down into two (2) separate projects, if it is one (1) project, or how do we obtain the funds. Service-Safety Director Schmelzer replied it is currently one (1) project that has one (1) ID with ODOT. Councilwoman Frische asked what the ordinance before Council tonight authorizes on the agreement. Service-Safety Director Schmelzer replied that it has everything to do with how the funds are administered, what the City's responsibilities are for the maximum amount, what kind of bidding process to go through, what kind of equal opportunity, what kind of payment requirements there are, etc. – everything that ODOT assigns to locals to bid and administer projects which is what the ordinance is about. Previously, the City had committed to ODOT that based upon this budget, the City would finance approximately twenty percent (20%). The City would still have to finalize the design, bid the project, appropriate and finalize the funding for that project which would be in late 2016 with construction in 2017. He had some questions about the one-way on Cory Street and how it is tied to this project. He contacted ODOT about it, but does not have any information as of yet. Once he does, he will provide it to Council. He is going to ask how many points Cory Street got and how relevant it is to getting the grant, if it warrants further consideration regarding that part of the project, and what does that mean to the overall. Once he has that information, he will forward it to Council. Councilwoman Frische asked if approving this process will lock the City into the Cory Street project. Service-Safety Director Schmelzer replied it will not. There are a lot of factors that could come into play. The project has to be put to bid. The project has to come in with the budget that was originally presented. There has already been some minor scope changes to the Riverwalk section along the river and the City's ability to give right-of-way for it, and deal with the flood and the analysis that goes along with it. This is not an ordinance that will lock us into the scope. We did that when we went through the whole public process and spent months talking about the project and applied with ODOT. He will follow up with ODOT to get some answers to give back to Council. He will also ask ODOT what would happen if the City decides to alter the Cory Street portion of the scope. Councilwoman Frische asked if it would ruin the tap itself. Service-Safety Director Schmelzer replied he will obtain that information as soon as he can.

Councilman Harrington asked if Cory Street will be one-way north or south and asked if a study has been done to determine which way would be best. Service-Safety Director Schmelzer replied it was identified and looked at by the Traffic Engineers. Traffic counts were looked at. It was identified as going one-way north to the University. Most of Cory Street from Lima to Front Street is already north bound one-way. This would continue that traffic pattern and allow one lane of bike traffic to move southbound with a dedicated striping from the University of Findlay to Lima. He has the entire application electronically if anyone wants it emailed to them. Filed.

City Engineer Brian Thomas – Tap fees for West Park Sanitary Sewer Project

An Analyst from the Office of Community Development (who administers the CDBG program) was in two (2) weeks ago to conduct an audit of the project. The project passed the audit with flying colors, but the Analyst did ask a question about tap fees. CDBG grants are federal funds that are awarded through the U.S. Department of Housing and Urban Development (HUD). The analyst state the HUD had regulations in place that prohibit the collection of special assessments for projects that use CDBG funds. The Analyst was asked to provide the section of code that states that tap fees could not be provided. After Mr. Thomas reviewed the information, he looked over the information to determine the feasibility of charging tap fees for the project.

This project is providing sanitary sewer to properties that are currently served by septic tanks and leach fields. There are no existing laterals to connect, so laterals are provided to the right-of-way. Property owners are responsible for connecting their house sewer to the laterals that the City provides. Since no tap, impact or capacity fees have been collected, the property owners are required to pay the fees to connect to the laterals.

After discussing this with the CDBG Analyst, the requirements from HUD limit one-time fees. Mr. Thomas explained that Council was proposing a one-time reduced tap fee of \$400 or a yearly payment of \$100/year for six (6) years. The CDBG Analyst replied that technically, a once a year payment for a number of years is permissible.

There are basically two (2) options available. The first is to waive the tap fees for the property owners. The second option is to break down the fees so that the property owners can make yearly payments for a given number of years. If Council does wish to pursue breaking the fee up over multiple years, there are some details that will need to be worked out (i.e. payment tracking, creating a multi-year permit, breakdown of the partial payment into the different accounts, etc.). A Water and Sewer Committee meeting is requested to determine which option Council wishes to pursue and to work out details if a payment plan option is chosen. Referred to the Water and Sewer Committee. Filed.

President of City Council James Slough/President Pro-Tem of City Council Ronald Monday

Pursuant to Ohio Revised Code 718.11 (A)(2)(HB5), the legislative authority of any municipal corporation that imposes tax on income shall maintain a local Board of Tax Review of which two (2) members shall be appointed by the legislative authority of that municipal corporation.

Council President Slough and Council President Pro-Tem Monday recommend Douglas Huffman and Roger Miller be appointed to this committee. Both are practicing attorneys in Findlay and have indicated a willingness to serve. This requires Council confirmation.

Discussion:

Councilman Monday requested this be read in full. The Council Clerk read the letter in its entirety.

Councilman Monday moved to accept these appointments. Seconded by Councilman Russel.

Councilman Wobser asked what the effective date for these appointments are. Councilman Monday replied it starts January 1, 2016 when the Law Director and the Treasurer surrendered their appointments. Councilman Wobser asked if the terms are retroactive. Councilman Monday replied they are.

All were in favor. Filed.

City Auditor Jim Staschiak – summary financial reports

A set of summary financial reports for the prior month follows including:

- Summary of Year-To-Date Information as of December 31, 2015
- Cash & Investments as of December 31, 2015
- Open Projects Report as of December 31, 2015
- Financial Snapshot for General Fund as December 31, 2015

Discussion:

Councilwoman Frische noted that the beginning cash balance for the General Fund summary is higher than last year. She asked if this is partly because of the deferrals with a higher carry forward. Service-Safety Director Schmelzer replied it is because we did not spend all the money that was budgeted. Councilwoman Frische then asked if the additional funds are all from departments returning the funds. Service-Safety Director Schmelzer replied that is correct. City Auditor Staschiak added that is correct to some extent. As part of the budget process, approximately \$1,500,000-\$1,600,000 was estimated to come back from departments because that is what they told us what would come back. An additional \$600,000.00 came back from departments that said they would spend the funds, but didn't. Additionally, the income tax came in about \$700,000.00 beyond the revenue estimates. Last year, the income tax came in short. There were deferrals in 2014 into 2015 which had some impacts on the 2015 summary. There is an Income Tax Board meeting tomorrow that hopefully the amounts of deferrals for next year can be addressed. The dollars that we are accumulating are significant because of many months of cash reserve. By second quarter, he will have a conversation with Council about the cash balances, cash flows, and some of the things that are impacting us because of some Federal and State things that are happening that are likely to impact us dramatically down the road if we continue to maintain these types of balances.

Councilman Wobser asked if the \$7,200,000 estimated cash balance at the end of the year is a percentage of our total budget. City Auditor Staschiak replied that is what is estimated beyond minimum reserve. It is what is projected based on the budget that adopted \$11,700,000.00 in cash at the end of 2016 which is less than half of the operating budget in the General Fund. Councilman Wobser pointed out that there currently is about fifty percent (50%) of the operating budget. He suggested Council take a look at the cash strategy going forward with these types of balances. The carry-over is a significant dollar amount that should not be sitting around in accounts that need to have some longer term looks to see what can be done to put the money to work for citizens. He suggested a Committee of the Whole meeting to discuss. Councilwoman Frische seconded the motion. All were in favor. Filed.

City Planning Commission agenda – February 11, 2016.

COMMITTEE REPORTS:

The **STREETS, SIDEWALKS, & PARKING COMMITTEE** to whom was referred a request to discuss a sidewalk variance for 407 and 409 East Hobart Avenue.

We recommend the variance be granted.

Councilman Shindledecker moved to adopt the committee report. Councilwoman Frische seconded the motion.

Discussion:

Councilman Shindledecker notified Council that this committee was asked to consider a variance for two (2) new home constructions on East Hobart Avenue. During the discussion, the sidewalk ordinance was looked at and it was pointed out that there is some vague language and some possible contradictions. To some degree, the committee did not think this needed a variance because legislation did not require it. He checked with the Engineer's Office during the course of their meeting and was told that due to the new construction in the project front (the other portion of it), the committee did not feel that they needed to consider the variance or rewrite legislation, but the language in the sidewalk legislation does need to be looked at clarify the language either by sending it back to this committee, to an Ad Hoc Committee or somewhere.

All were in favor. Filed.

LEGISLATION: RESOLUTIONS

RESOLUTION NO. 010-2016 (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 Harrington moved to adopt the Resolution, seconded by Councilwoman Frische. 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.

RESOLUTION NO. 011-2016 (Main St/Cory St revitalization project)

first reading

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 TRANSPORTATION ALTERNATING PLAN (TAP) FUNDS FOR THE DOWNTOWN REVITALIZATION PID98797 - PROJECT NO. 31942400, AND DECLARING AN EMERGENCY.

Councilman Monday moved to suspend the statutory rules and give the Resolution its second and third readings. Seconded by Councilman Russel. Nays: Frische, Shindledecker, Watson, Wobser. Ayes: Harrington, Hellmann, Klein, Monday, Niemeyer, Russel. The motion failed.

First reading of the Ordinance.

ORDINANCES

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

second reading

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Second reading of the Ordinance.

ORDINANCE NO. 2016-007, AS AMENDED (amendment to salary ordinance no 2015-100)

second reading

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

Second reading of the Ordinance.

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

second reading

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

Second reading of the Ordinance.

ORDINANCE NO. 2016-010 (2016 Capital Improvements)

second 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 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.

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

Discussion:

Councilwoman Frische noted that there isn't a plan for the Fiber Loop Installation, so she would like to see that appropriation line item removed from this Ordinance until it is definite we are going with it. Service-Safety Director Schmelzer replied it is just start-up money. He has not received an answer back yet from the consultant on what they would charge us to develop our own plan. He is working on a meeting date for it. He has no issues with taking the appropriation out of the Ordinance. Councilwoman Frische also noted that the Ordinance also authorizes the Service-Safety Director to enter into a contract and appropriate funds. If we are not sure yet what we are doing, she would like it removed from the Ordinance.

Councilwoman Frische made a motion to amend the Ordinance to remove the Fiber Loop Installation appropriation of \$20,000 from the Ordinance. Seconded by Councilman Wobser.

Councilman Watson asked if the appropriation is just starter money to get things going. Service-Safety Director Schmelzer replied that is correct. He will provide Council with all the answers to what the alternative plan would be which would be the City constructing its own "core". He has done research on collaborating this with the school, but did not do a lot on building our own infrastructure because it seemed to make sense to work with them. As soon as he gets the answers to those questions, he will call a meeting and then Council can decide if they want to build it on their own, go with the school, or skip it all together.

Ayes: Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische. Nays: Harrington, Hellmann, Klein, Monday. Councilman Wobser moved to adopt the Ordinance as amended. Seconded by Councilwoman Frische. Ayes: Russel, Shindledecker, Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2016-010 and is hereby made a part of the record.

ORDINANCE NO. 2016-014 *(insurance payment; donations)*

first reading

adopted

AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Councilwoman Frische moved to suspend the statutory rules and give the Ordinance its second and third readings. Seconded by Councilman Russel. Ayes: Shindledecker, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel. Nays: Watson. The ordinance received its second and third readings. Councilman Wobser moved to adopt the Ordinance, seconded by Councilman Russel. Ayes: Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker. The Ordinance was declared adopted and is recorded in Ordinance volume XX, Page 2016-014 and is hereby made a part of the record.

UNFINISHED BUSINESS:

OLD BUSINESS – none.

NEW BUSINESS

Councilwoman Frische: **WATER AND SEWER COMMITTEE** meeting on February 10, 2016 4:00pm in the Council Office, first floor of the Municipal Building (CO).

agenda: 1. tap fees for West Park sanitary sewer project/Davis Street - University of Findlay

Councilman Klein does not have any issues with Ordinance No. 2016-007 AS AMENDED regarding the amended promotional policy except for the word "authorization". Council has already authorized it by establishing the pay range, and to do it again is just repetitive. He would like the word authorization be changed to notification. Councilwoman Frische asked if this is the same verbiage that was in the previous salary ordinance before the last one. Law Director Rasmussen replied it is the same except that "without Council authorization" was added to this ordinance. The original request was that the Administration obtain Council 's authorization. The way it was worded before, however, was that Council could not extend it past eight percent (8%). Councilwoman Frische then asked if this verbiage does allow it to be extended past eight percent (8%). She asked if the salary request is above eight percent (8%), if Council will have to authorize it. Law Director replied that Council would be authorizing into a range, so if the range is there, it has already been approved by Council. Councilman Harrington clarified that when Council passes a salary ordinance, they authorize for a specific salary range. By forcing Council to revisit anything that is requested over eight percent (8%) is redundant. He likes the idea that Council is notified so that there are no surprises but should not have to approve it again. Councilwoman Frische feels there is some confusion on the difference between the salary ordinance and the budget ordinance. The salary ordinance that Council passed is simply giving guidelines that the Administration has to work within. At the end of the day, Council still has to appropriate within the budget for the funds to be spent. By having authorization from Council, it implies that we are going to appropriate and authorize the additional above and beyond into that budget where Council will decide if it is the right thing to do right or not. The salary ordinance is a guideline that has to be worked within. The budget ordinance is what Council appropriates because Council holds the purse strings when moving money around. She does not see a problem with the word authorization and she would leave the ordinance as is. Councilman Watson supports keeping authorization in the ordinance. It is not redundant as much as it is a redundancy. It is just another check system in place to make sure Council is not only aware, but would vote on it again. Service-Safety Director Schmelzer added that Council can provide a budget dollar amount for a department, but what the ordinance is saying now is that an employee is already placed in a range, regardless of years of service, if that person is going to be given more than eight percent (8%), the Administration comes back to Council to request the increase even though the employee is within the range and is prescribed, more than eight percent (8%). The Administration would go through that process to get the authorization to pay that employee with budget dollars that are appropriated. Councilman Russel pointed out that is not what the Ordinance says. It says that any time an employee gets an eight percent (8%) or more pay raise regardless of what range they are in or if they are getting promoted, it will require Council's authorization. If an employee is promoted from one range to another and the promotion gives them above an eight percent (8%) raise, it will require Council's authorization. Council will be authorizing the promotion that the Administration desires to make. Councilwoman Frische added that the salary ordinance may need to be revisited during a Committee of the Whole meeting. She suggested asking the Department Heads if they have any input on promoting employees. She does not feel leaving Council's authorization in the Ordinance is redundant. It worked fine before other than the new word "authorization". During the last Council meeting, it was discussed that in order to move City employees up, things have to be moved around in order to get them to the salary number over a one (1) or two (2) year timeframe in order to stay within in the eight percent (8%) number. If an employee is promoted to more than an eight percent (8%), Council would not be micromanaging the topic, but Council needs to have a role

in how the money is being spent and with appropriations in the budget. When the Human Resources Director and the Engineering positions were looked at, money was budgeted every year to allow the Administration to headhunt and be able to work within that range. Service-Safety Director Schmelzer replied that is correct. Councilwoman Frische added that it gave the Administration the free rein to work up to that authorized amount for both positions, and then if the Administration wanted to give more than eight percent (8%) after the first year, it should be discussed and authorized by Council. Service-Safety Director Schmelzer disagreed with what Councilman Russel said. He does not think the ordinance should be interpreted as he does. The way he reads it is, if an employee is promoted, they will be placed in a range. The Administration places them in the range to which they are promoted. Any subsequent increase, once the employee is promoted, the Administration has to ask Council if more than an eight percent (8%) raise can be given. Law Director Rasmussen replied it is once they are in the range. He read the ordinance:

SECTION 9: PROMOTIONAL POLICY

Effective January 14, 2007, an employee who is promoted to or hired into a job classification that is in the "Administrative", "Professional", "Executive" or "Computer Employee" pay classifications of this ordinance and that is paid using a minimum and maximum salary range will be assigned a biweekly pay amount that is within the allowed range. Once the employee is assigned an amount within the range, all future increases in the biweekly salary amount shall not exceed eight percent (8%) in any calendar year.

Councilman Watson would like some kind of Council notification and authorization if this happens. Councilwoman Frische noted that in the two (2) years she has been on Council, she has never had the Administration come to Council with an employee being promoted that received over eight percent (8%). She asked how this was handled back when it was written in the ordinance. Service-Safety Director Schmelzer replied that the Administration did not have to ask Council when they promoted employees. Councilwoman Frische replied that it was in the old salary ordinance. City Auditor Staschiak added that when this was most challenging was in the past when an employee was promoted to a supervisory position that had a range. There weren't ranges until the mid-2000s which was done for convenience. In the past, Council authorized the salary. An employee got this much money in this position. Ranges were developed under the Iriti Administration to give the Administration a little leeway. When an employee was promoted from a line position into a range, it was a bump. The challenge was if there was a cost of living raise (COLA) raise in the beginning of the year and then the employee is promoted within the range, there could be an issue because many times, employees did not qualify, so the salary would have to be adjusted to meet the eight percent (8%) limit. In the past, the Administration was notified by a payroll change notice that the Auditor's Office corrected and then that employee's wage would be adjusted. He is unaware of any cases where it came to Council. It was normally handled by the Administration to stay within the eight percent (8%) because they did not want to come ask for more, so it became a cap. Service-Safety Director clarified that we are not asking for who the Administration can promote. The Administration places employees in a range and if they want to give the employee a raise of more than eight percent (8%), the possibility is there, but would have to ask Council to do it. Councilman Klein replied that the way it is written is exactly the way he reads it. Councilman Watson agrees with what Service-Safety Director Schmelzer's interpretation. Councilman Hellmann asked if this is worth discussion in a Committee of the Whole meeting. Councilman Russel asked if a motion was made to table this until such a meeting is held. Councilman Harrington asked if this could be on the agenda for the Committee of the Whole meeting that needs to be scheduled for the other items that have already been referred to it. City Auditor Staschiak asked Council if they want to combine the Fiber Optic discussion with a cash discussion because they will both be big discussions. Councilman Klein prefers to have one long meeting rather than three (3) separate meetings. Councilwoman Frische added that it is unknown how long Hancock-Wood Electric's presentation will be. Finances usually involve a longer discussion. Councilman Watson asked if a motion has been made to refer this to the Committee of the Whole. Councilman Harrington made a motion to discuss all three (3) topics at one (1) Committee of the Whole meeting. Councilman Klein seconded the motion. Ayes: Harrington, Hellmann, Klein, Monday, Niemeyer, Shindledecker. Nays: Frische, Russel, Watson, Wobser. Motion to discuss all three (3) topics at one (1) Committee of the Whole meeting is approved.

Service-Safety Director Schmelzer asked that Council set a date to discuss the Fiber Loop Installation. He will invite the consultant and the school to attend. If they cannot make the meeting, there will not be anyone to talk to about the topic. Councilman Russel does not want to lose the opportunity to partner with school district. This project has the potential to transform how the City communicates. If this is referred to the Committee of the Whole and it ends up we can't have the meeting, then the funds cannot be appropriated to move forward with it and the opportunity moves away, we are doing a disservice to our citizens by not being onboard. Council President asked the Service-Safety Director to contact them to work around their schedule to make sure they can attend. Councilwoman Frische added that it would be the same with Hancock-Wood Electric. They have several individuals that will need to attend the meeting. We need to give them their due diligence because we are looking at some major changes that are going to benefit the community. Service-Safety Director replied he will get back to Council with dates on when the consultants can meet on the Fiber Loop Installation project which is priority at this point, and then go from there. Council President Slough asked Council if they want him to schedule a meeting for the other topics.

Council President Slough: **COMMITTEE OF THE WHOLE** meeting on February 17, 2016 4:00 pm in the third floor conference room beside the Mayor's Office (CR1).

- agenda:
1. Hancock-Wood Electric Franchise Agreement
 2. City's carry-over balances
 3. Fiber Loop installation
 4. Ordinance No. 2016-007 AS AMENDED

Councilman Russel: **PLANNING AND ZONING COMMITTEE** meeting on February 11, 2016 4:00pm in the Council Office, first floor of the Municipal Building (CO).

- agenda:
1. North Cory Street rezone
 2. 133 Hillcrest Avenue rezone
 3. MPC hotel ROW variance

President J. Slough adjourned Council at 8:38pm.


CLERK OF COUNCIL


PRESIDENT OF COUNCIL