

FINDLAY CITY COUNCIL MINUTES

REGULAR SESSION

May 3, 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 Monday moved to accept the April 19, 2016 Regular Session City Council meeting minutes. Councilman Klein seconded the motion. All were in favor. Motion carried. Filed.

ADD-ON/REPLACEMENT/REMOVAL FROM THE AGENDA:

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

REPLACEMENTS:

- Ordinance No. 2016-040 (**LEGISLATION** section)
 - Moved 913.99 PENALTY section to the end to keep it in numerical order
 - Changed "Shade Tree Commission's list of Street Trees" in J. 1. to now be "Ordinance Definitions for tree size"

PROCLAMATIONS: - none.

RECOGNITION/RETIREMENT RESOLUTIONS: - none.

PROCLAMATIONS: - none.

PETITIONS:

Zoning amendment request – 123 Garfield Street

Deric Luginbill would like to change the zoning to R4 Duplex Triplex Residential. It currently is zoned as R2 Single Family. Referred to City Planning Commission and Planning & Zoning Committee.

Zoning amendment request – 429 Walnut/420-422 Prospect Street

Chuck Wilson would like to change the zoning to R4 Duplex Triplex Residential. It currently is zoned as C2 General Commercial. Referred to City Planning Commission and Planning & Zoning Committee.

WRITTEN COMMUNICATIONS:

Brad Koller, Fields for All Fundraising Committee – Fields for All project at new Miracle Park of Findlay

Mr. Koller thanks the City of Findlay for their generous support of the Fields for All project and being such a valuable member of their team. Throughout this project, they have asked for and received positive and valuable feedback from the general community, as well as from the special needs community who will use the facilities daily. It was clear there were opportunities to enhance the original design and provide a more positive experience for everyone who plays. They have made major enhancements to their initial project scope, including:

- Adding safety/security fencing around the perimeter of the playground and shade canopies for the playground to provide protection from the sun
- More expansive sensory equipment to better support a large population in this community
- Approved a video scoreboard and sound system
- An arch entrance into the park
- Homer statue that includes a photo location and recognition area for their donors

The net result of these enhancements is that their original project of \$1.2MM is now at \$1.35MM or a 12 percent (12%) increase. As of May 1, 2016, they have pledges of \$1.16MM, approximately 86.2 percent of their new forecast.

The community also provided feedback that a public restroom was needed to support this expansion. The City of Findlay has appropriated money to support this need. The new inclusive public restroom facility will not only benefit their project, but will also support the existing fields and future expansions. The appropriation from the City of Findlay for the restroom was \$225,000. Costs associated with putting in the restroom, including bringing in utilities (water, sewer and electric) to the area, architect fees, and landscaping expenses which increased their total costs for this addition to \$275,000, which results in a \$50,000 deficit.

The Fields for All committee is beginning the final fundraising initiative to close the gap providing the City with a fabulous inclusive facility, one that will be the pride of the community and all those who use it. Mr. Koller includes a rendering of what the new Miracle Park of Findlay will look like when construction is complete. When the facility is completed, it will have a combined total value of over \$1.62MM.

Fields for All Committee is committed to making up the gap between their forecast and their fundraising efforts. They are reaching out to all who have participated and bring a new fundraising effort to a new group of donors to make up the difference. They are asking the City to increase their contribution by \$50,000 making the new project total \$275,000 or approximately 17% of the current estimate of \$1.625MM.

Their pledge to the City of Findlay is that the Fields for All committee is going to ensure that they provide an inclusive facility that is unique for Ohio, and one that when completed, will be transferred to the City debt-free. Referred to the Appropriations Committee.

ORAL COMMUNICATIONS:

George Walton – Hancock-Wood Electric Ordinance No. 2016-035

Mr. Walton came before Council to provide some additional comments before the last reading of the ordinance tonight. Hancock-Wood Electric (HWE) has not, in any manner, impacted economic development in Findlay. The majority of the commercial properties on the east side of Findlay were developed since he has been with HWE. HWE has made a significant amount of investment on the east side in their 38kb substation that they have upgraded twice because of all the additional commercial accounts that ended up on the east side. He has a difficult time understanding what is competitive on the distribution side. The water side of the business is the local distribution charges which is one component. Wholesale cost is competitive that the state legislature put in place back in 2000. It is the only part that is competitive. Some of their commercial accounts have emailed Council with their position on HWE's rates and service. In the eighteen (18) years that he has been with HWE, he has not received any complaints about their rates or competitive issues. He asked if Council is looking at the competitiveness of the extension of service. It is a small part of the deal. When a business looks into coming to Findlay, they look at the electric and utility rates, but it is not the only deciding factor. They are also looking at tax abatements and other local, state, and county incentives.

One of the emails that Council received from Granger Energy Service was about their unique situation. Granger was outside the municipality. They had the option to be serviced at two (2) different locations. One was within HWE's service territory and the other was with Ohio Power's territory. One of the reasons AEP's estimates on those locations were large was because they were not accounts they wanted to service, so they did not provide a lucrative estimate. The coop was formed strictly because utilities did not want to go out and serve the rural areas. The east side of Findlay was part of the rural area before it was annexed into the City before being developed adding new commercial accounts. During the Committee of the Whole meeting, AEP kept stating they want to give the customer what they want and are pushing competition which is why AEP is fighting so hard on this proposal. The Dispatch article states that AEP's CEO is telling a different story. Their CEO is saying because they didn't get a guaranteed income/profit, they want to go back to a regulated market. There are two (2) sides to economic development. One being retention of commercial accounts which is just as important as bringing new accounts in. The testimonials that were emailed to Council will provide what some of their accounts think of HWE. They meet with them, work with them on reducing costs, and provide analyses on lowering costs.

In utility rate making, those rates are developed on the return of investment which is built on a number of years. When HWE takes on debt to build the lines (putting poles in the ground, installing transformers, etc), it is financed and advertised over a thirty (30) year period. HWE, as well as members of HWE pay on that debt as it is built into their rates, even though an account comes off their line or they lose an account.

At the end of each year, all of HWE's profits (non-profit organization) are reallocated back to all of their members. There are checks issued to commercial accounts in the amount of \$10,000-\$30,000+ per year.

A Councilmember requested both HWE and AEP provide their rates for the same location (rates, not cost to extend service) in which HWE provided an actual number taken from their billing industry. HWE's is approximately \$.07.7 and AEP's rate is \$.09.9.

Romark's provided HWE with twelve (12) month of their bills. HWE were approximately \$5,000 cheaper than what Ohio Power was. When extending service, it seems to be all about location. Location should not be an issue. It should be about rates. In order to create a competitive market, it should be about the rates and not what the cost is to extend service. HWE's cost to extend service to Romark was not a huge part of the cost, but it was within Ohio Power's facilities as it backed up to Tall Timbers. There have been plenty of occasions when AEP has not been in the right spot to serve the load. Over the years, HWE has utilized the process of trading loads with Ohio Power/AEP. HWE has always requested the projection of the loads from commercial accounts so that they cannot provide estimates to the customer. At the end of August, Romark provided HWE with their projection of loads, and then around the middle of September, HWE provided back to Romark, an estimate of their rates to service them. They had never worked with Romark before that. They had only worked with Romark's Engineering firm. By the time Mr. Walton became involved with the Romark project, negotiations were already taking place. Romark at that point wanted to go with AEP because they had serviced one of their other facilities over in Tall Timbers. Romark was told by AEP that they could service them without HWE's permission. Mr. Walton then asked Romark if there was any way to negotiate with them before they go with AEP to which Romark told him no. All HWE provided to Romark was the estimate. No other negotiations took place. He has emails to support every statement from Romark's Engineering firm.

Discussion:

Councilman Wobser asked for clarification that it was Romark's Engineering firm that got in the middle of this and did not go through the normal process. Mr. Walton replied that is correct. Normally, if there are any issues with the estimates HWE provides, negotiations take place. Hamlet Protein is an example of how negotiations have taken place in the past. An estimate is provided on how HWE can serve them. The estimate to Hamlet Protein was a little high, so they sat down with them and worked through it. As you can see from the email they sent to Council, they are completely happy with HWE. Councilman Wobser then asked if AEP came to HWE asking for Hamlet Protein's load and switched it out another spot. Mr. Walton replied that is the way it has always been done. Councilman Wobser then asked why AEP did not go that route for Romark. Mr. Walton replied he does not know why. He has written petitions of different scenarios where AEP came to HWE asking to serve a location (as well as HWE going to AEP). Those petitions have to be approved by the PUCO so that the territorial lines in the certified territorial law can be changed on the map and will indicate what utility company will serve them.

Councilman Russel asked if AEP also submitted an estimate to Hamlet Protein. Mr. Walton replied they did not because it was within HWE's service territory, so they worked directly through HWE. The only time businesses go to another utility is when the other utility company cannot serve them. In that case, the utility companies get together and negotiate. If they are able to come to a settlement, a petition is submitted to the PUCO.

Michael Reed – Cory Street options

Mr. Reed is the co-Chair of the Pathways Action Group (PAG) and the Director of the University of Findlay's Recycle Bicycle Program which has over eighty (80) bikes that they loan out. He is also a traveler that has seen pathways work comfortably in other cities. The Pathways Action Group is a grass-roots collection of citizens that have been meeting for over a year and a half in an effort to make a comprehensive pathways plan a reality. They have just submitted a copy of the 354-page layout of \$220,000 to earn DNR's Recreational Trails Program to extend the existing Blanchard Green Waste Trail from Riverside Suites to Bright Road, and hopefully soon all the way to Riverbend Park. PAG supports the idea of having sharrows and bike indicators on all kinds of street conversions. They prefer the one-way street option, but at least in a 2-way street option, there is a designation for bike safety in the sharrow lanes.

The City runs all its planning with cars first and foremost. It is that kind of mentality and kind of addiction that only allows for transportation that is only good for cars. This perspective and mentality unnecessarily creates a set of winners and losers every time a road is constructed or upgraded. The winners are always the motorists. The losers are the citizens (i.e. walkers, joggers, rollerbladers, handicapped, and bikers) who wish to use the same road to go anywhere within the City. Extensive use of sharrow lanes and pathways would allow the City to lay down a marker for future planning allowing for city streets that will work equally well for all users and would encourage City planners to think more towards development upgrades on all roads making sure all streets work equally well for everyone. Crystal Avenue, for example, was upgraded with no thoughts on a bike lane or pathway to allow hundreds of Owens Community College students and others to get to the college safely. The creation of the mall and Wal-Mart had no provisions for walkers or bikers. Many students use the back access along the river to Wal-Mart on Trenton Avenue/US 224 taking their life into their hands because there is no designated walkway or provision for bikers, and the road is not wide enough. CR 236 does not have anywhere to walk or bike that could easily be put in. He asked what will happen when the Osborn bridge across the Blanchard River is upgraded if the same thinking of no provision for bikers, joggers, walkers takes place. He asked how non-vehicle individuals will get from Hunters Creek to Riverside Park if there are no pathways for them. In order for all winners, it will take a different kind of planning. He challenges the City to support a system of roads and upgrades where every dollar spent does not perpetuate this kind of addiction to autos and the continuation of winners and losers. The Cory Street project is a way to make a change and incorporate the goal embodied by the National Complete Streets organization to think about all the users for that particular road when roads are upgraded or new roads are put in. He quoted the Courier from a few weeks ago "Findlay may never be a bicycle town like Boulder, Colorado or even Columbus, Ohio, but does not mean that officials shouldn't strive to make the City more bike-friendly and safer for those who prefer 2-wheel transportation (2 feet or 2 rollerblades)".

Discussion:

Service-Safety Director Schmelzer noted that the Osborn bridge will be wider and will account for pedestrians. In the last couple of years, the Administration has been very proactive in trying to include and work with a master plan to pursue projects like Sandusky Street and the crossings on the Main Street project (Greenway Trail). He has been very pleased with the efforts on completing the master plans when street infrastructure is needed. That plan can be used as a basis and will be instrumental in the pursuit of grants. He commended Mr. Reed on his group's efforts and noted that they need to work together to accomplish his goals. He does not agree that the City has not put any consideration into bike/pedestrian pathways. Mr. Reed replied that was not his intent, but noted that every time an upgrade to a street is done, other users need to be taken into consideration. He appreciates the City's efforts and will continue to work with them.

Councilman Wobser asked Mr. Reed if he is okay with the sharrow lane on the Cory Street project. Mr. Reed replied he is okay with it, but prefers the one-way option, but feels the sharrow lane is a good start.

REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS:

N.E.A.T. Departmental Activity Report – March 2016. Filed.

Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control for 50 North, located at 339 Melrose Avenue, Findlay, Ohio for a D4 liquor permit. This requires a vote of Council.

Gregory R. Horne, Chief of Police – 50 North, located at 339 Melrose Avenue, Findlay, Ohio. A check of the records shows no criminal record on the following:

Tom Seffrin
John Haywood
Mike Weissling
Gena Grismore

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

Board of Zoning Appeals Minutes – March 10, 2016. Filed.

Traffic Commission minutes – April 18, 2016. Filed.

Treasurer's Reconciliation Report – March 2016. Filed.

City Planning Commission agenda – May 12, 2016. Filed.

City Engineer Brian Thomas – CDBG (FY16) application, Areas B-4 & B-6 (Phase II) sewer separation project 32556100

Hancock Regional Planning Commission is preparing to submit a grant application on the City's behalf for funding from Community Development Block Grant (CDBG) funds through the Ohio Department of Development. The project will consist of additional sewer separation work in the area of East Foulke Avenue, Allen Avenue, Midland Avenue, Garfield Avenue, and George Street (referred to as B-4 and B-6 areas). The City's matching funds are included in the proposed 2017 Capital Improvements Plan. Legislation authorizing City representatives to sign the grant application and agreement if the grant is approved. Resolution No. 019-2016 was created. Filed.

City Engineer Brian Thomas – Main St alleys reconstruction (CDBG FY15) project 32864500

The Ohio Department of Development has notified the City that the Community Development Block Grant (CDBG) funds for this project are now available. The funds will be used for alley improvements in the downtown area. The CDBG allocation grant amount is \$127,000 and the critical infrastructure grant amount is \$300,000. The City's share for construction of the project is included in the 2016 Capital Improvements Plan and will be appropriated at a later date. Legislation to appropriate funds for alley improvements in the downtown area is requested.

FROM: CDBG Grant Fund \$ 427,000
TO: Main St Alleys Reconstruction Project No. 32864500 \$ 427,000

Ordinance No. 2016-044 was created.

Discussion:

Councilman Russel asked when construction on this will start. Service-Safety Director Schmelzer replied he expects it to be completed by the time the plans close later this year. Filed.

City Engineer Brian Thomas – CDBG Critical Infrastructure Grant Application

Again this year, the City has the opportunity to apply for a Critical Infrastructure grant from Community Development Block Grant (CDBG) funds through the Ohio Department of Development. Hancock Regional Planning Commission is preparing to submit a grant application on the City's behalf. The proposed project will consist of eliminating an existing combined sewer overflow in the area of East Street and East Front Street. The project will also include the addition of flap gates in several areas. Currently, when the water level in the river rises, water from the river is entering some storm sewers. The flap gates will make it so that this cannot happen. A preliminary project estimate is \$411,000 with \$300,000 from CDBG, \$1,000 revolving loan funds, and the remaining amount coming from City funds. Legislation authorizing City representatives to sign the grant application and agreement if the grant is approved is requested. Resolution No. 020-2016 was created. Filed.

Parks and Recreation Board minutes April 18, 2016. Filed.

COMMITTEE REPORTS: - none.

LEGISLATION:

RESOLUTIONS

RESOLUTION NO. 018-2016 (over PO amount)

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

RESOLUTION NO. 019-2016

first reading

(CDBG (FY16) application, areas B-4 & B-6 (Phase II) sewer separation project no. 32556100)

A RESOLUTION AUTHORIZING THE MAYOR AND/OR SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO TO FILE AN APPLICATION FOR FISCAL YEAR 2016 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND, IF AWARDED, TO SIGN A GRANT AGREEMENT WITH THE OHIO DEPARTMENT OF DEVELOPMENT.

Councilman Harrington moved to adopt the Resolution.

Discussion:

Councilman Klein called for the point of order and asked for clarification if this Resolution needs three (3) readings or not. Law Director Rasmussen replied it takes three (3) readings. Councilman Harrington motion was to adopt, not to suspend the second and third readings.

Councilman Harrington retracted his motion to adopt the Resolution.

First reading of the Resolution.

A RESOLUTION AUTHORIZING THE MAYOR AND/OR SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO TO FILE AN APPLICATION FOR A CRITICAL INFRASTRUCTURE GRANT FROM COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND, IF AWARDED, TO SIGN A GRANT AGREEMENT WITH THE OHIO DEPARTMENT OF DEVELOPMENT.

First reading of the Resolution.

ORDINANCES

ORDINANCE NO. 2016-035 (HWE Franchise Agreement)

third reading

defeated

AN ORDINANCE GRANTING TO HANCOCK-WOOD ELECTRIC COOPERATIVE, INC. ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO ACQUIRE, CONSTRUCT, MAINTAIN AND OPERATE IN THE STREETS, THOROUGHFARES, ALLEYS, BRIDGES AND PUBLIC PLACES OF THE CITY OF FINDLAY, STATE OF OHIO, AND ITS SUCCESSORS, LINES FOR THE DISTRIBUTION OF ELECTRIC ENERGY AND OTHER SERVICES TO PARTS OF THE CITY OF FINDLAY AND THE INHABITANTS THEREOF FOR LIGHT, HEAT, POWER AND OTHER PURPOSES AND FOR THE TRANSMISSION OF THE SAME WITHIN, THROUGH AND ACROSS SAID CITY OF FINDLAY, STATE OF OHIO, SUBJECT TO AND IN COMPLIANCE WITH THE CERTIFIED TERRITORIES FOR ELECTRIC SUPPLIERS ACT (OHIO REVISED CODE SECTIONS 4933.81 TO 4933.90).

Councilwoman Frische moved to adopt the Ordinance. Seconded by Councilman Wobser.

Discussion:

Councilman Wobser noted that when he brought this to Council, his main intent was to get it off the table and have legislation available. In the meantime, he has learned a lot about utility franchise agreements, the PUCO, and how utilities work within the community. He thanked Councilman Niemeyer for seconding the motion to get this moving, and thanked Hancock-Wood Electric (HWE) and American Electric Power (AEP) for spending time with Council and educating them on the situation. Both utilities companies do a fine job for our community both residential and business customers. He also thanked those who wrote/mailed back to Council who are for and against the ordinance. There are two (2) options for Council tonight on this: pass or vote it down. It is a complicated situation that he hopes all Councilmembers have a good understanding on what the vote would mean either way. If Council votes to pass it, we will be giving a territorial agreement that will define the lines for HWE and AEP going forward. It will potentially stop situations like the Romark situation. A vote against it keeps things the way it is and potentially gives the City the option to do something at a later date.

Councilman Russel thanked the utility companies for attending the Committee of the Whole meetings and educating them on the process. Back in 1982, HWE signed a franchise agreement, Ohio Power signed one in 1984 and again in 2009. Over time, the language in the agreements have not changed. Tonight's ordinance is not to vote on whether HWE is a good utility provider as there is no doubt they are by the letters of support Council received from their clients. HWE, by their own testimony and support letters, indicate that they can compete with the best of any utilities at providing service. He is glad they are a member of this community. HWE asked Council for clarification on Council's original 1982 intent which is a difficult task because none of the current Councilmembers were here then. As HWE's attorney Bob Hollister stated, Council's job is to clarify what Council's intent is going forward. He does not feel that Council should be undoing thirty (30+) years of how the franchise agreement is structured because of this one unique situation. HWE has legitimate concerns about how this situation has occurred in that AEP decided to service a new customer without the normal territory trading, which was not acceptable. The proper place for that to be resolved is in front of the PUCO. His comments to the PUCO would be that in situations like this, the utility companies should work together for the consumers by bringing both parties to the table as they have done for thirty (30+) years. The proper solution would not be for Council to negotiate AEP's franchise agreement along with HWE's at the same time, but to continue to rely on the franchise agreement that has been in place for thirty (30+) years. Council's opinion to the PUCO for these types of situations would be to bring the parties to the table and continue to make the territory trades as it has been done in the past. He will be voting against this ordinance.

Councilwoman Frische noted that the current franchise agreement worked for the last thirty (30+) years, but times are changing and for some reason, AEP wanted to do business differently this time which is causing a problem for HWE which is understandable because there are two (2) different franchise agreements going on. When Councilman Russel stated what opinion Council should express to the PUCO, that is what HWE is asking for in the verbiage of this ordinance (what the City's intent is). She lost confidence in sticking to the franchise agreement when AEP went a different route this time. She understands why HWE is worried about the current franchise agreement because of the overlap. She asked AEP's representative Randy Payne (from the audience) how it would negatively affect AEP if Council voted to give HWE the change in the franchise agreement verbiage. Mr. Payne replied that the only negative he can think of is that AEP would not be able to add additional customers. Councilman Russel asked Mr. Payne if this ordinance were adopted if AEP's territory would be reduced. Mr. Payne replied it would not. Councilman Wobser asked Mr. Payne why this situation went much differently with Romark than it had previously and asked why AEP perceived this in the manner they did. Mr. Payne replied that in 2006, they kept referring back to the PUCO ruling that happened in Delaware and Lexington. They have never taken advantage of this until Romark came in. Councilman Wobser then asked if AEP's intent is to continue to do this in this manner. Mr. Payne replied they would look at each business case. If a customer approaches them that is similar to Romark where they would not have to extend facilities, they would look at it from a business standpoint. Councilwoman Frische asked if AEP would go back to the previous practice that has been in place for the last several years of going to the PUCO and do a reallocation of property together or if they would go "side" table and tell the customer that they could potentially end up in a court case. Mr. Payne replied that Findlay City Council wants them to do it that way which is why they are here tonight. If Council wants AEP to do this, the City will have to change the franchise agreement. Councilwoman Frische then asked if Mr. Payne would have any issues with the City changing the franchise agreements to have everyone treated fairly and equally and take the City out of the middle. Mr. Payne replied that the City knows where AEP is positioned on the agreement.

Councilwoman Frische asked Service-Safety Director Schmelzer why the Administration wants to create competition on the lines, on the wholesale, or on both when the PUCO does not want the City to encourage competition on the lines. Service-Safety Director Schmelzer replied that he disagrees that the PUCO does not want any competition because they encourage these entities to work together to talk about who can most capably and most affordably serve the customer. He defines that as a competitive scenario when they are both talking about who can serve the customer the best. The Administration wants to provide the best service for the citizens of Findlay, including corporate citizens. Their discussions have been on whether AEP can more serve the customer or HWE, which leads to growth in the community. The Administration is not condoning one way or the other on AEP's corporate practice as it relates to HWE's territory. Both HWE and AEP are outstanding companies that he has always had good experiences working with them. The Administration wants the most competitive scenario which leads to the lowest price for the corporate entity and citizens who want to obtain service in the city.

Councilwoman Frische then asked if the Service-Safety Director prefers the process to be the new way that is proposed or the old way that it has been because if he prefers the old way, then the ordinances need to be changed whether its changed tonight by this ordinance or changed to territories. If he is okay with AEP doing it a different way, then this ordinance should not be passed. Service-Safety Director Schmelzer replied that Councilman Russel stated it well. The current system has works well for thirty (30+) years. If that system can continue so that neither entity is unduly expending dollars that are in no way shape or form protected for the infrastructure that they are putting in, then that is what he would like to see continue. On the other hand, if there is a corporate customer that is on the line between two (2) service providers and they can go to each service provider and negotiate the best price, that would be a win-win situation. Councilwoman Frische then asked the Service-Safety Director if he is good with this ordinance because it would continue the same practice but shows the City's intent to follow the territory lines and still be able to negotiate as has been done for the last thirty (30+) years. It would eliminate the option of going through the PUCO to do a side deal like the Romark situation and would keep the City out of the middle. Service-Safety Director Schmelzer replied if that is in fact what it does as he does not know if that is what it does, then he is all for it. AEP already has a franchise agreement for the entire city. Council would be signing an agreement with one entity that impacts another which is a better question for the Law Director.

Law Director Rasmussen added that these situations were being handled with the old franchise agreement, so there is no need to make it territorial. If it becomes territorial, then the claim is that AEP cannot service that area. Discussions that happened before were under the old franchise agreements. Councilwoman Frische noted that Council and the Administration like the processes that have always been in place, but the franchise agreements do not protect what our intentions are, but that processes has changed and AEP just stated that they will do what is best for them. She asked how the City can stay out of the middle and asked if the franchise agreements be changed or if they are locked in. Law Director Rasmussen replied the franchise agreements can be modified, amend or repealed. Councilwoman Frische is referring to what has happened in the past which happened under the old franchise agreements where the utility companies worked together. She added that AEP is saying they won't work with HWE. They are going to do what is best for them. If AEP continues the same process that they did with Romark, that would mean the franchise agreements are not protecting HWE and would not be taking the City out of the middle. She asked if this ordinance will or will not fix that problem without affecting AEP's franchise agreement, or if the franchise agreements needs revised so that each utility company is a territorial and the City would be out of it. She asked if this will make the process cut and dry again with no overlap when someone is annexed into the city. She wants to make sure Council is doing the right thing for both utility companies and not causing a hardship to either one. She asked for a reason not to pass this ordinance and what should be done to take the City out of the middle. Law Director Rasmussen replied that if there is a territorial agreement/ordinance, HWE would have to go to the PUCO to challenge AEP's authority to operate outside their territory. He does not know how the PUCO would rule on it. AEP would have to make the PUCO aware that they did not amend their franchise agreement and that they have the right to service those overlapped areas. It is not the City's decision. The changes Councilwoman Frische mentioned were in everything that occurred when they were working together under the old franchise agreements. It used to be that both utility companies worked together and then got the territories laid out and updated the maps. Councilwoman Frische asked for the Law Director's recommendation to move forward and what his legal opinion is since he wrote the ordinance. Law Director Rasmussen replied he did not write the ordinance, but that it was prepared by them for us. He was asked to use the language that they presented to us in the ordinance. Councilwoman Frische then asked if he determined if it is legal or not. Law Director Rasmussen replied that the impact has nothing to do with it being legal or not. If Council passes the ordinance, it is legal and Council is giving territorial protection to HWE by amending their ordinance and not AEP's. It still will be an issue for PUCO. It always has been from the very beginning.

Councilman Wobser was going to vote against this ordinance with the hope that the two (2) entities would continue to work together like they had been previous to this situation with Romark, however with AEP's commenting that they have no intent to do that when it suits them profitably, he is changing his vote to be in favor of this.

Councilman Klein reminded Council that Councilman Hellmann brought up the idea of getting both parties to work together to come up with something to which Mr. Walton replied he was not interested in doing that.

Councilman Harrington called for the question.

Ayes: Niemeyer, Watson, Wobser, Frische. Nays: Harrington, Hellmann, Klein, Monday, Russel, Shindledecker. The Ordinance was defeated.

Councilman Harrington reminded Council that even though this ordinance did not pass, if there is an issue in the future that would cause Council to revisit it, they will do so. It is his hopes that the two (2) parties involved would start working well together. Councilwoman Frische noted that it is a shame how this vote turned out because if Council can readdress it down the road and it happens again, it will still be too late for HWE's infrastructure because the deal was made already.

ORDINANCE NO. 2016-037 (Cory St TAP) third reading adopted
AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO, TO ALTER THE CORY STREET TRANSPORTATION ALTERNATIVE PLAN (TAP), AND DECLARING AN EMERGENCY.

Councilman Russel moved to adopt the Ordinance, seconded by Councilman Klein.

Discussion:

Councilman Russel is a member of the Pathways Action Group that Dr. Reed mentioned earlier. That group was originally opposed to the two-way proposal with the sharrow lanes because many of them had not seen sharrow lanes before, but were open to listening to how the sharrow lanes work in conjunction with vehicle traffic. He was in Colorado last weekend, a bike-friendly community, where they have extensive uses of sharrow lanes on much busier streets than Findlay's Cory Street. He concurs with Dr. Reed's statement that Cory Street serves as an example of how the future of our roadways can play out. Either way, there will be bike traffic increase. It will be indicated on the maps that this is a bike-friendly street. It will be a two-way street, so there will not be a winner or a loser in the two (2) different transportation modes. He supports the motion to make this a two-way street.

Councilman Niemeyer noted that this bike path is in the sixth ward, which is his ward. He has not heard from anyone that is in favor of going one-way. They are in favor of it going both ways. Some of the local businesses that would be affected by the one-way bike path would be Dominos, East of Chicago, Precision Engine on North Cory, All-Service Automotive, Karl Kuhman's Body Shop, John Snyder's Used Car Lot, Ace Hardware, Dr. Seng on North Main Street, Findlay City Garage on North Cory Street. They are fine with a bike path. He did have someone try to contact him about this issue, but he has not been successful in getting back with her.

Councilman Shindledecker is in favor of keeping Cory Street a two-way street. He feels that if there is an obstacle in one proposal, it should be an obligation to come up with an alternative. There are some possibilities for an exclusive bike lane to serve the area between the university and downtown. He agrees with Dr. Reed that the Cory Street bike path project is not an ideal situation, but making Cory Street one-way would not be an ideal situation either.

Ayes: Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Wobser, Frische, Harrington. Nays: Watson. The Ordinance was declared adopted and is recorded in Ordinance volume VV, Page 2016-037 and is hereby made a part of the record.

ORDINANCE NO. 2016-040, AS AMENDED (*Shade Tree Commission & Tree Regulations*) **second reading**
AN ORDINANCE REPEALING CHAPTER 913 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, AND IN ITS PLACE, ESTABLISHING A NEW CHAPTER 913 ENTITLED ESTABLISHMENT OF SHADE TREE COMMISSION AND TREE REGULATIONS ORDINANCE FOR THE CITY OF FINDLAY, OHIO.

Second reading of the Ordinance.

ORDINANCE NO. 2016-043 (*Stix Restaurant lease agreement*) **first reading**
AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE FOR THE CITY OF FINDLAY, OHIO, TO EXECUTE A LEASE AGREEMENT WITH RENZ RAINER D. SALANGA, DBA, STIX RESTAURANT FOR APPROXIMATELY SEVEN HUNDRED EIGHTY SQUARE FEET (780^{SQ FT}), MORE OR LESS, ON THE LOT OWNED BY THE CITY AT THE CORNER OF EAST SANDUSKY STREET AND SOUTH MAIN STREET, FINDLAY, OHIO.

Discussion:

Service-Safety Director Schmelzer asked if it would benefit Council if he were to show the limits of where this area would be. It is where the former Revolver Restaurant was.

Councilman Klein asked what will be used for the barrier. Service-Safety Director Schmelzer replied that liquor laws state they need a barrier and that it has to follow the downtown outdoor dining rules, so they have to use something similar to what has been put up in front of Divine Wine or Alexandria's. They can also put something similar to what Revolver Restaurant did with the block or terrace wall. Regardless, it is temporary and is a one-year renewable lease instead of a five (5) year lease, so they wouldn't be doing anything too expensive, extravagant or permanent.

Councilman Shindledecker noted that the Service-Safety Director indicated in his communication that he notified the owner of the Stix restaurant that it might be somewhat of a lengthy process since setting a precedence for having done this in the past. He asked if this would allow them to operate during the process of adopting/denying this ordinance or if the City can provide them the opportunity to take advantage of having an outdoor seating area during the warmer weather. Service-Safety Director Schmelzer replied the timing is up to Council. He let the owner know that Council does like to give legislation multiple readings.

First reading of the Ordinance.

ORDINANCE NO. 2016-044 (*Main St alleys reconstruction (CDBG FY15) project no. 32864500*) **first reading**
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

ORDINANCE NO. 2016-045 (*11815 TR 145 ROW dedication*) **first reading**
AN ORDINANCE DEDICATING A CERTAIN PORTION OF RIGHT-OF-WAY (HEREINAFTER REFERED TO AS 11815 TOWNSHIP ROAD 145) IN THE CITY OF FINDLAY, OHIO.

First reading of the Ordinance.

UNFINISHED BUSINESS:

OLD BUSINESS

Councilwoman Frische asked if the two (2) resolutions for the CDBG issues need to be passed tonight. Service-Safety Director Schmelzer replied there is no need to pass them tonight. They are two (2) readings ahead of the submittal deadline. Details for the submittal are still being worked on, so that shortly after the passage of the resolutions, they would be prepared for that.

Councilman Harrington noted that streets that are going to be paved this year have been determined. He asked if the alleys that are being considered for the alley paving program could be identified. Service-Safety Director Schmelzer replied that the Street Department is still in the process of identifying the alleys that need the most attention. The goal is to get them completely reconstructed and get to the point where chip seal could be used on all the alleys on a five to six (5-6) year rotation. He will try to have a list by the next City Council meeting. Councilman Harrington asked if the Administration is taking recommendations. Service-Safety Director Schmelzer replied that citizens are encouraged to let the Street Department know what alleys need attention. The Street Department will go out and verify if the suggested alley is a legitimate claim and attending to those that need attention right away.

NEW BUSINESS

Councilman Monday: **APPROPRIATIONS COMMITTEE** meeting on May 10, 2016 at 4:00pm in the third floor conference room beside the Mayor's Office (CR1).
agenda: Fields for All project at new Miracle Park of Findlay

Councilman Russel: **PLANNING & ZONING COMMITTEE** meeting on May 12, 2016 at 4:00pm in the third floor conference room beside the Mayor's Office (CR1).
agenda: 1. 123 Garfield St rezone
2. 429 Walnut/420-422 Prospect Street

Councilwoman Frische asked if the Miracle Park request should go to the Parks and Recreation Board. Service-Safety Director replied it should not. The project has already been approved. It is a request for additional funding based upon some of the upgrades that the group is looking to do at the facility. The Parks and Recreation Board would not have any impact on the overall scope on whether the project is done or not.

Council President Slough wished Councilman Monday a Happy belated Birthday. His birthday was yesterday.

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


CLERK OF COUNCIL


PRESIDENT OF COUNCIL