

FINDLAY CITY COUNCIL MINUTES

REGULAR SESSION

September 6, 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 the August 16, 2016 Public Hearing minutes for 1017 East Sandusky Street (Ordinance No. 2016-078). Councilman Klein seconded the motion. All were in favor. Motion carried. Filed.
- Councilman Harrington moved to accept the August 16, 2016 Regular Session City Council meeting minutes. Councilman Niemeyer seconded the motion. All were in favor. Motion carried. Filed.

President J. Slough introduced Robbie Schuck from the audience. Robbie is with Boy Scout Troop 302. He is sponsored by Faith Presbyterian Church. He is working on his citizenship merit badge.

ADD-ON/REPLACEMENT/REMOVAL FROM THE AGENDA:

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

REPLACEMENTS:

- Ordinance No. 2016-089
 - 2nd SECTION 7 (be and the same is hereby amended to read as follows):

last JOB CLASSIFICATION listed says "nic", should be "Mechanic"

- Ordinance No. 2016-090
 - SECTION 5 (pg 2) should read:

SECTION 5: That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of public peace, health and safety, and for the further reason that the health, safety and welfare of the community dictates that the prohibition of cultivation, processing or retail dispensing of marijuana for medical purposes be legislatively prohibited before Substitute HB No. 523 goes into effect on September 8, 2016 and, provided it receives the affirmative vote of two-thirds (2/3) of all members elected to Council, it shall take effect and be in full force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PROCLAMATIONS: – none.

RECOGNITION/RETIREMENT RESOLUTIONS: - none.

PETITIONS:

Zoning amendment request – 1403 S Blanchard St

Richard Felkner would like to change the zoning for 1403 South Blanchard Street to R3 single family, high density. It currently is zoned as R1 single family, low density. Referred to City Planning Commission and Planning & Zoning Committee.

WRITTEN COMMUNICATIONS: - none.

ORAL COMMUNICATIONS:

Wayne Breitigam – issues in West Park area

Mr. Breitigam has lived in the West Park area here in Findlay, Ohio for fifty-seven (57) years. He asked City Council why the citizens in the West Park area being discriminated against. He noted that someone he knows who is employed by Marathon came from another city to Findlay looking for a home to buy. He looked for some time before finding one in West Park. He was told by co-workers not to live in "taco city" because of all the Spanish and white trash and the African Americans that live out there. That is the same mentality that the City has about West Park. Findlay had the money to repair curbs and streets in the rich parts of town that were already in better shape than what West Park is. West Park does not even have storm sewers, but for several years have been charged for storm sewers on their water bills. He handed out photos along with a copy of his water bill. He compared it to someone purchasing a new car who would make payments, and wait ten (10) years before seeing the car or driving it. That is what the residents of West Park are asked to do as they have paid a monthly sewer fee on their water bills for the last ten (10) years, but do not have storm sewers. He then compared this with what happened with the Boston Tea Party. He does not understand how he is billed for a service he does not have. The back of the first handout is a photo of a telephone pole that was put in the middle of a walkway where the guidewires are also in the middle of the walkway which may cause a million-dollar lawsuit. If a child rides his/her bicycle there, he/she may run into the guidewire and the City will end up being sued because it is on City property. No one from the City comes to West Park and sees these types of problems. Whatever Engineer did this should have been fixed. The last handout is a picture of his street after a light rain. It shows how the rain gathers because there are no storm sewers. They have chuck holes that are four feet (4') long, six to eight inches (6-8") deep, by two feet (2') wide. There are thirteen (13) of them in one block that has never been patched or maintained.

West Park must be very low on the City's list of places to do anything. There is a street in the rich part of town that is one block long and is a dead-end (there is only one-way out of that street). The City tore up that street and put in new curbs and pavement. He asked what good that did for citizens as it only has eleven (11) houses on that street.

Discussion:

Councilman Hellmann asked if Mr. Breitigam's requests have been made of the City in year's past. This is the first he has had of these issues. Mr. Breitigam replied that it took a long time to even get the City to mow their own property. His then Council Representative told him years ago that he might as well forget it as he won't get anywhere with it, but he has gotten somewhere with the mowing, so he will get further with these issues he has brought up tonight.

Councilman Harrington pointed out that he is Mr. Breitigam's Council Representative now and that he takes an objection to what Mr. Breitigam claims he told him. At one point in time, Mr. Breitigam was mowing the area on a regular basis, and when City employees went out to the area on more than one occasion to mow, it was already mowed, so it was a waste of time and effort on their part. He also told Mr. Breitigam that the City would accommodate the mowing out there. He researched it and found out that the City did own part of it, but also that the State owns across the street, so he contacted them to get the situation remedied. He was not aware of the guidewire issue until tonight. Residents need to let the City Administration or Council Representatives know when issues like these happen. He agrees that it is an eyesore and probably a liability. Other citizens in the West Park area have voiced their concerns to him which have been addressed. Unfortunately, not all the citizens' concerns can be accommodated as they are part of a big picture for the entire City. Mr. Breitigam replied that no one wants to do anything. Councilman Harrington replied that is not true. Mr. Breitigam then asked why the one-way street was done and all the curbs were redone and was repaved when West Park has large chuck holes. Councilman Harrington replied that would be a decision made by the Streets, Sidewalks and Parking Committee. It was made at committee level. It was not a Council decision. Mr. Breitigam then asked why the chuck holes have not been fixed. If anyone were to drive through West Park, they would see them. Councilman Harrington replied that there are also other potholes throughout the City that are addressed once they are identified. Mr. Breitigam is criticizing the process rather than the solution. The process has to handle it so that the desired solution happens. Mr. Breitigam added that the last time Councilman Harrington was out to West Park was four (4) years ago in which the City did two (2) blocks on Bial, two (2) blocks on Logan, and two (2) blocks on Glenwood. Nothing else has been done since then. Service-Safety Director Schmelzer noted that what Mr. Breitigam is referring to was done last year and noted that this is the first year since he has been with the City that the City has not undergone a complete reconstruction on at least a couple blocks of West Park. West Park is traditionally where CDBG and OPWC funds go to. There are a lot who question why the City totally reconstructs streets in West Park when other streets in the City are curbed. More resources are required. A plan is in place to get completely through West Park, a plan to get storm sewers, and a plan to get all the streets reconstructed, but based on the amount of funds available, the repairs have to be spread out. Mr. Breitigam asked why the City had the funds to do other streets but not West Park. Service-Safety Director Schmelzer replied that many streets in the West Park area have been completely reconstructed for at least the last four (4) years or so. This is the first year that it hasn't been done. For as many questions as Mr. Breitigam has about why funds are not being directed towards the West Park area, there are other citizens asking why there are funds being directed there. It is a balance that the City has to go through every year. Mr. Breitigam again asked why the City is discriminating against West Park. Councilman Harrington disagrees with Mr. Breitigam and added that a lot of residents in that area take pride in ownership and the fact that earlier Mr. Breitigam referred to West Park as "taco city" is racist. Mr. Breitigam replied that he does not refer to it as that, and that came from Marathon. Employees at Marathon told the gentleman that wanted to purchase a home in West Park that it is referred to as that. President J. Slough interrupted and noted that there has been plenty of discussion on this matter. The Service-Safety Director and Councilman Harrington have stated that they will look into these issues.

Jamie Miller – trash and junk yard in north end

Mr. Miller has lived in Findlay all his life, has worked at Cooper Tire for twenty-nine (29) years, and has owned a historical building in the three hundred (300) block of North Main Street for eighteen (18) years. He works very hard to be proud of his building, keeping it neat and presentable. Not only does he work to make his space look good, he also tries to keep surrounding areas neat and clean, including his rental house on Meeks Avenue that is occupied by his children. His extra chores include: plowing the alleys and parking lots, mowing grass near the railroad tracks, picking up trash, killing weeds, basically anything to keep the block looking neat. He is so busy that he does not have time to pay a lot of attention to what goes on around him, but he is there, so he cannot ignore it which is why he is before Council tonight. Everyone is well aware of the devastation that has wiped out the north end from flood and fire. Many are anxious for new development in the north end, but are uncertain how soon anything may or may not happen. He is before Council tonight to raise awareness of another form of a catastrophe which is neglect. The intersection of Meeks Avenue and Main Street is an absolute mess. For the last six (6) years, he has put up with a junk yard (aka ASA Auto Repair) on the corner of Meeks Avenue and Main Street. There are junk cars that have been there for long periods of time, some for six (6) years. There are huge piles of tires, metal lockers, and toe motors in the street, cars parked all over the street because the parking lot is full of junk cars, many are Demolition Derby cars that often sit on the corner of Main and Meeks. There is also an old bus, unleashed dogs that leave dog litter in his yard all the time, a sidewalk that does not really exist, and a building without water. Not only have they filled up their lot with junk cars, but they also have two (2) junk cars that have sat behind Dominos, and there are eight to twelve (8-12) more sitting behind John Snyder Auto Sales. John Snyder Auto Sales has become a complete mess. He used to admire his lot, but it is now a junk yard of what he calls cars for sale. He is always parking cars between the sidewalk and the street/curb. He is now parking cars all over the recent county-owned lot where the buildings were just torn down. It is a hoarder situation that will continue to spread unless something is done. There is a homeless man living in a boat (he has pictures of him) parked in the weeds behind another building. These infractions should have the attention of our Health Department, Engineer's Office, Service-Safety Director, EPA, ADA, Police Department, and the Dog Warden. Our Ordinances have to be enforced. In order to attract respectful citizens and developers, the condition of North Main Street or any part of this City should not be neglected. Marathon has invested eighty million dollars (\$80,000,000) into this City and do not deserve to be ignored. We are not showing them our appreciation by ignoring the junk yard four (4) blocks away. We are not showing the University of Findlay our appreciation by neglecting to keep an attractive North Main Street. We should not raise our kids to believe that this is the best we can do. He challenges everyone to drive through Findlay as if it were your first time here and determine what your impression of this city is when you first see Main Street. He feels it should be the most beautiful of all. He quoted writer Robert Ingersoll "The destroyer of weeds, thistle and thorns is a benefactor whether he soweth grain or not." Mr. Miller believes this holds true for the City's north end. Whether or not the north end is ever rebuilt, keeping it free from junk and weeds is a benefit. He does not blame City Officials for the mess on North Main, but blames the citizens for their neglect. It still is the duty of our City authorities to see to it that neglectful citizens comply.

Discussion:

Councilman Klein asked Mr. Miller what his thoughts are about the lot across the street from him where the burned out building was taken down. Mr. Miller replied that the brush is probably twelve feet (12') tall. Councilman Klein agrees with Mr. Miller that the area he is talking about is a mess. He asked the Service-Safety Director what the status is for cleanup for County properties. Service-Safety Director Schmelzer replied there have been conversations with the County about the vehicles needing to be removed. He has contacted the property owner across the street where the sage is growing to worse than acceptable heights. He has also followed up with the N.E.A.T. Department on it. He is unsure if N.E.A.T. has gotten around to the violations on the vehicles and tires on the ASA property for this round, but knows N.E.A.T. has been there since his last conversation with Council on this and has documented her findings. He understands exactly where Mr. Miller is coming from on these issues and shares many of his sentiments. It is the City's responsibility to do that and has asked the N.E.A.T. Department to provide him with what resources are needed to be more aggressive in this regard. There will be a follow up discussion with Council and some others on this property to determine what direction to go with them and how aggressive we want to be. It is a tough task when property owners play the shuffle game and regard their property as their assets. He does not necessarily agree with everything mentioned in Mr. Miller's letter, but there are some property owners who see true value in what they have hoarded and what they will do to try to keep that asset is sometimes extreme. The City does have some work to do. Mr. Miller added that the tire pile has been removed. Service-Safety Director Schmelzer replied that it does take some awareness. City officials do not have eyes everywhere and it takes the support of our citizens that want to see these things cleaned up.

Councilman Niemeyer asked when the tires were removed. Mr. Miller replied he saw them hustling to get the tires out on Thursday, September 1, 2016. Councilman Niemeyer asked how many tires there were. Mr. Miller replied there were at least two hundred (200). The tire pile was bigger than the short bus. Mr. Miller noticed Mr. Snyder has parked cars on the County lot which concerns him because that means it will continue to grow especially with Dominos moving. Mr. Miller's concerns are not meant to be a complaint, but more of an inspiration to draw some awareness. The homeless man living in the boat has been there approximately six (6) months. He is only about two hundred feet (200') away from a house of five (5) college ladies living in it. Every morning, they wake up and look at an ocean of junk cars as well as the homeless man not far from their front door. He doubts their parents appreciate it.

Mayor Mihalik noted that this has irritated her over the last few months, not just the North Main Street area, but also in the West Park area, and in other parts of the community that she knows the City can do better which is why she has asked the Service-Safety Director to work with the N.E.A.T. Department to figure out what is needed to remedy these properties. N.E.A.T. Department is only a one (1) person department. One (1) person is not going to be able to do it all, at least not at first. The City has asked N.E.A.T. to do the majority of the work. Not all property owners are as pleasant to deal with. She looks forward to hearing what is needed in order to get things cleaned up. Every day she asks questions about these situations. Mr. Miller is not the only one that calls asking what is going on with a particular property. The City has to go through due process that takes a long time of notifying the property owner and getting them to comply. It may seem as though the City is not addressing the issue, but in fact we are, but that it just takes time. Many times, not quick enough. The City is doing what they can to remedy these properties, but we can do better.

Connie Hoke – medical marijuana

Ms. Hoke is before City Council tonight to discuss the medical marijuana issue. While everyone has their own opinion on this and it will always stay that way. Ms. Hoke has a sister-in-law that is very ill with non-Hodgkin's Lymphoma who has lost approximately sixty (60) pounds of her one hundred thirty (130) pounds of body weight. She cannot eat. No medication helps her eat. She has been told that medical marijuana will help her through chemo therapy. There are so many in this county that have illnesses and are dying. There is no reason why we cannot have medicinal marijuana for the benefit of the people of this county. Yes, there is a lot of work to be done, but there is always a lot of work to be done. This has gone on for centuries and needs to stop because this is for the people of this county and this state. It is there to benefit the people that can use it. It is not about everyone being able to grow marijuana in their backyards or their gardens. It's about health benefits for people everywhere in this county that can benefit from it. She will serve on Council or any board to help pass this if needed. She is unsure what she can do except speak her voice to the citizens of this county. Many are not willing to speak up about it because they are afraid they will get in trouble or that many will think they are dope dealers. It is not about that. It is about the citizens of this county that need help.

REPORTS OF MUNICIPAL OFFICERS AND MUNICIPAL DEPARTMENTS:

Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control for Walgreen CO, dba Walgreens 07683, located at 15031 US 224 East, Findlay, Ohio, for C1 and C2 liquor permits. This requires a vote of Council.

Gregory R. Horne, Chief of Police – Walgreen CO, dba Walgreens 07683, located at 15031 US 224 East, Findlay, Ohio. A check of the records shows no criminal record on the following:

Alexander Gourlay
Amelia Legutkl
Alan Nielsen

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

Officer/Shareholders Disclosure Form from the Ohio Department of Commerce Division of Liquor Control for Guru Kirpa Enterprises LLC, dba Punjabi Kitchen, located at 15085 Flag City Drive & patio, Findlay, Ohio, D2 liquor permit. This requires a vote of Council.

Gregory R. Horne, Chief of Police – Guru Kirpa Enterprises LLC, dba Punjabi Kitchen, located at 15085 Flag City Drive & patio, Findlay, Ohio. A check of the records shows no criminal record on the following:

Jasvir Bajwal

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

Treasurer's Reconciliation Report – July 31, 2016. Filed.

City Engineer Brian Thomas – LGIF application, City of Findlay GIS enhancement plan

In an age where technology is becoming more and more common place and the public is requesting instantaneous information, organizations stand out more, so when they do not have technology in place or are not able to provide efficient responses. By enhancing the City of Findlay's current GIS, it will allow the City the ability to provide information more seamlessly and readily to internal staff. Additionally, by having this information readily available to external users (via the web), it will allow those users the ability to seamlessly view information regarding utilities, zoning, residential and commercial information.

The City is preparing to submit a grant application for funding from the Local Government Innovation Fund Grant (LGIF). The application will cover GIS Enhancement Plan for the City. The project will be included in the 2017 Capital Improvements Plan. Legislation authorizing City representatives to sign the grant application and agreement for funding is requested. Resolution No. 030-2016 was created.

Discussion:

Councilman Russel asked the Service-Safety Director what is needed to finish this effort. Service-Safety Director Schmelzer replied that the GIS initiative started with the City many years ago. A lot of data was put together for water, sanitary sewer, and storm sewer, including horizontal and vertical locations of those appurtenances. Those maps are starting to be built and are now at the point where we have the utilities in our GIS system. What we want to do now is take a look at how we can integrate the data with what the County's GIS system has and make it available online, and take a look at what we need to do to get that data into our vehicles so that our utility service personnel have the ability to take a look at those utilities and maybe use a hand-held unit to get to a water valve that is covered by snow. There are a lot of things that needs to be available on the map that we can utilize GIS for. The last part of it would be the availability of that information and make it available for anyone to look at online. As a past consultant, Service-Safety Director Schmelzer routinely came to cities like Findlay and asked their staff to pull records for him so that he can do plans. If that information was available online, it would save time. The LGIF grant will award up to fifty thousand dollars (\$50,000) for consultant services that we would utilize to see how we can put those next steps into play. Councilman Russel then asked if this project is expected to be done in 2017 or if it is a multi-year effort. Service-Safety Director Schmelzer replied it is a multi-year project.

Councilman Helmann asked what the grant amount is and if there is a match or percentage that the City needs to throw in. Service-Safety Director Schmelzer replied there is a five thousand dollars (\$5,000) match on a fifty thousand dollars (\$50,000) award. Fifty thousand dollars (\$50,000) is the maximum award. Filed.

City Engineer Brian Thomas – OPWC application, areas B-4 & B-6 (Phase II) sewer separation project #32556100

The City is preparing to submit a grant application for funding from the Ohio Public Works Commission (OPWC). The application will cover the second phase of a sewer separation project on East Foulke Avenue, Allen Avenue, Midland Avenue, Garfield Avenue, and George Street (referred to as B-4 and B-6 areas). The project will be included in the 2017 Capital Improvements Plan. Legislation authorizing City representatives to sign the grant application and agreement for funding is requested. Ordinance No. 2016-086 was created.

Discussion:

Councilman Russel asked if this is on both sides of the streets and if it will be finished in 2017 or will it take multiple years to finish. Service-Safety Director Schmelzer replied it is on the west side. It is the second of Phase II, so it will finish next year. Filed.

City Engineer Brian Thomas – I-75 sanitary sewer relocation project #35649300

By authorizing of Ordinance No. 20160-010, bids were opened for this project on August 16, 2016. Five (5) potential contractors submitted bids ranging from \$291,533.50 to \$394,145.00. The lowest and best bid was received from Helms & Sons Excavating, Inc. of Findlay, Ohio. Previously, \$10,000 was appropriated to the project for design and startup. At this time, an appropriation for the construction contract, along with contingency and inspection, is needed. Since the project was necessary for the I-75 widening and reconstruction, the City will receive reimbursement from ODOT. This appropriation request does not exceed the budgeted amount in the 2016 Capital Improvements Plan. Legislation to appropriate funds is requested. Ordinance No. 2016-087 was created.

FROM: Sewer Fund	\$ 330,000.00
TO: I-75 Sanitary Sewer Relocation Project #35649300	\$ 330,000.00

Filed.

City Engineer Brian Thomas – CR 212/CR 236 widening project #32864600

In July, Letters of Interest (LOI) were received from seventeen (17) potential consultants for design of this project. The LOIs were reviewed and rated for selection based on qualifications. Peterman Associates of Findlay, Ohio was selected as the design consultant. Previously, \$5,000 was appropriated to the project for startup funds. At this time, an appropriation for the preliminary design and soil exploration is needed. This appropriation request exceeds the budgeted amount in the 2016 Capital Improvement Plan by \$5,000. Legislation to appropriate funds is requested. Ordinance No. 2016-088 was created.

FROM: CIT Fund – Capital Improvements	\$ 50,000.00
TO: CR212/CR 236 Widening Project #32864600	\$ 50,000.00

Filed.

City Planning Commission agenda – September 8, 2016; minutes – August 11, 2016. Filed.

City Auditor Jim Staschiak II – refunding 2008 bond issue

As reported earlier this year, market conditions favored an advance refunding of 2008 bonds issue of approximately \$6,500,000. The goal was to save at least 3% over the life of the remaining debt. A value savings of 6.61%. This is a savings of \$460,484.00 on the debt service which is significant. The new bond issue was sold at a yield of 2.179%-2.932% and will be paid off in full by the year 2033. Funds to service this debt is paid out of the City's General Fund which will benefit from the reduced cash outlay. Filed.

City Income Tax Monthly Collection Report – August 2016. Filed.

Mayor Lydia Mihalik – appointment to Hancock Metropolitan Housing Authority Board

Mayor Mihalik is reappointing Nancy Stefani to serve on the Board of Commissioners for the Hancock Metropolitan Housing Authority. Ms. Stefani has expressed a desire and willingness to continue to serve the community in this capacity. This appointment will be effective through November 12, 2021. This appointment does not require Council's confirmation.

Discussion:

Councilman Harrington feels Ms. Stefani is a good choice. Filed.

Mayor Lydia Mihalik – HB No. 523 (Medical Marijuana Control Program)

Governor Kasich signed Substitute HB No. 523 on June 9, 2016 which allows for the cultivation, processing, and retail dispensing of medical marijuana. The effective date of the statute is September 8, 2016. Among other things, the legislation requires that the Ohio Department of Commerce and State Board of Pharmacy administer a Medical Marijuana Control Program which permits a patient, upon the recommendation of a physician, to use medical marijuana to treat a qualifying medical condition. It permits state regulatory oversight of the cultivation, processing, retail sale, use, and physician recommendation of medical marijuana. It also prohibits a cultivator, processor, retail dispensary, or laboratory from being located or relocating within five hundred feet (500') of a school, church, public library, public playground, or public park. It creates a state board that will, over the next year, determine a regulatory scheme to provide for the just and proper regulation of medical marijuana, and authorizes the legislative authority of a municipal corporation to adopt an ordinance to prohibit or limit the number of cultivators, processors, or retail dispensaries licensed under this chapter within the municipal corporation.

Given the fact that we will not know what the regulatory scheme will look like for some time, cities across the state are enacting legislation placing a moratorium on cultivators, processors, and retail dispensaries pursuant to Ohio Revised Code §3796.29 while the Ohio Department of Commerce and State Board of Pharmacy complete their work. Only then will we truly know the extent to which medical marijuana will be regulated. Only then will we be able to make a truly informed decision whether to permit medical marijuana in some form or the other.

Ordinance No. 2016-090 on tonight's agenda enacts a strict prohibition against cultivation, processing and retail dispensing of medical marijuana. Mayor Mihalik is requesting that the three (3) readings be suspended and the legislation be passed in advance of the effective date of the State legislation of September 8, 2016. Ordinance No. 2016-090 was created.

Discussion:

Councilwoman Frische requested the letter be read in full. The Council Clerk read the letter in its entirety. Filed.

Findlay Police Department Activities Report – August 2016. Filed.

Hancock Regional Planning Commission Director Matt Cordonnier – amendment to Findlay Zoning Code

Hancock Regional Planning Commission requests that City Council amend the City of Findlay Zoning Code to prohibit, in all zoning districts, the operation of medical marijuana cultivators, processors and retail dispensaries as permitted by Ohio Revised Code Section 3796.29. The requested amended language would read as follows (changes in italics/bold):

1101.08 PROHIBITION

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new or change shall be made or maintained of any building, structure, or part thereof, except in conformity with the provisions of this Ordinance. ***The operation of medical marijuana cultivators, processors and retail dispensaries, as defined by the Ohio Revised Code, is banned and strictly prohibited in all zoning districts pursuant to Ohio Revised Code Section 3796.29 and Section 513.15 of the Findlay Codified Ordinance.***

Legislation to authorize said change is requested. It is also requested to suspend the rules of Council and give it its three (3) readings and pass on an emergency basis. Ordinance No. 2016-091 was created. Filed.

COMMITTEE REPORTS:

The WATER AND SEWER COMMITTEE to whom was referred a request from Andrew Yates of YRI Properties to discuss delaying the impact and capacity fees until construction on Phase II begins for the townhomes of Liberty Ridge at 200 Thimbleberry Drive.

We recommend delaying impact and capacity fees for up to 1 year or until phase 2 begins, whichever comes first.

Councilman Harrington moved to adopt the committee report. Councilman Watson seconded the motion. All were in favor. Filed.

**LEGISLATION:
RESOLUTIONS**

RESOLUTION NO. 028-2016, AS AMENDED (CIT labor costs)

second reading

adopted

A RESOLUTION TRANSFERRING FUNDS WITHIN APPROPRIATED FUNDS, AND DECLARING AN EMERGENCY.

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

Councilman Monday moved to adopt the Resolution, seconded by Councilman Harrington.

Discussion:

Councilman Wobser noted that the amount that is coming into this was discussed at the meeting with the possibility of revising that amount. He asked if the original one hundred fifty-five thousand dollars (\$155,000) amount has been changed. City Income Tax Administrator Andrew Thomas from the audience replied that it can be amended to one hundred forty-one thousand five hundred dollars (\$141,500). Councilman Wobser then asked if this is the amount that will get us through the end of the year. Andrew replied he believes so.

Councilwoman Frische asked if it will be in the 2017 budget when it is reviewed this fall if salaries for permanent positions like what was asked for last year. Andrew Thomas replied it is premature to answer that. Councilwoman Frische then asked if the position is going to be filled before the end of the year. Andrew Thomas replied he will not make a commitment to that. He is not saying one way or the other. Councilwoman Frische noted that if the funds are moved, it won't be there. Andrew Thomas replied that when he originally prepared this, it really wasn't going to be an amount that he could not ask for more or reverse it. This is the best amount he can come up with right now. Councilwoman Frische asked if Andrew Thomas is bonded through the City. Andrew Thomas replied that his specific position is bonded. Councilwoman Frische then asked if Andrew Thomas is able to bond temporary employees since they are not direct hires under him if there would happen to be an issue in the income Tax Department. Andrew Thomas replied that both the companies that they are utilizing are insured. Councilwoman Frische asked who would be bonded. If Andrew Thomas had an issue in his department, would his bond cover it. Andrew Thomas replied that his bond is only for his position. Councilwoman Frische then asked if any direct hires are covered. Andrew Thomas replied that City employees are covered under the regular insurance through the City. Councilwoman Frische then asked if there is a potential liability for them. Law Director Rasmussen replied that there are blanket bonds. Councilwoman Frische asked if it is for non-City employees. Law Director Rasmussen replied that they are supervised. Councilwoman Frische then asked if they are covered and if it causes a potential liability for the City if something were to happen with confidential information or anything else in the department since they have temporary employees and not permanent City employees. Law Director Rasmussen replied that those liabilities are possible whether or not they are temporary or permanent employees. Under the contracts we supervise, they report to us, we discipline, they go through our Human Resources or would just be let go. Councilwoman Frische then asked if there were findings for recovery in that department because of a temporary employee, would the City be subjecting themselves to have to pay out any findings because the Income Tax Administrator's bond would not be cover those employees. Law Director Rasmussen replied it would be an issue with the blanket bond that all employees are covered under. We are indemnified by their insurance.

City Auditor Staschiak thanked Council for recognizing and encouraging the Income Tax Board to review this matter as it is supposed to be done under the statute. The support in moving it back to this committee was much appreciated. He has had many conversations with well over one hundred (100) members of the community on this matter. Only two (2) individuals that he spoke with said they wanted more information, but when the matter of temporary employees seeing income tax information and working in that department in the capacity that they do, all were not in favor of it. He hopes we move towards permanent full-time employees. He recognizes and respects that it is the Administration's authority to decide this.

Councilman Watson asked if there is a reason why it is difficult to fill positions within the Income Tax Department. Andrew Thomas replied he does not know. They are in a stage of evaluation. During this time period when the tax season is over and it is a lot less intense, he has explained to his staff members many times that it is an office setting, but it is also a production environment. They have to stay on task as it is a revenue producing operation, which is not for everybody. It is the best time to evaluate employees to see if it is a good fit for them.

Mayor Mihalik added that the Income Tax Department has a good working relationship with the staff they have in place. They are a very efficient team. They have been able to accomplish a lot this last tax season which is over and above what they have been able to do in previous tax seasons. While they are sometimes labeled as temporary employees, they are still human beings that work very hard on behalf of this community. She has spent a considerable amount of time speaking with those who wish to talk about how they are being portrayed, and she believes Andrew Thomas is doing what he needs to do in his department. The Administration trusts department heads to make decisions. It will be helpful if this item could be dispensed so that Andrew Thomas can get back to operating his department.

Councilwoman Frische feels that refund accounts should stay for refunds only and not be depleted to pay temporary employees. She asked if this will become a regular thing to do that will need to be replenished annually. She asked Andrew Thomas how it would affect his operations if he was not able to use refund account funds to pay temporary employees. Andrew Thomas replied that if he was not able to pull from that account, he would budget for salaries and wages in the 440900 account which would syphon money from other departments. Part of the one hundred seven thousand dollars (\$107,000) transfer is to put it right back into the refund account to restore it to its original amount. He does not intend for it to be done year after year, but is something he said he would do during the budget discussions for administrative needs. Councilwoman Frische asked if Andrew Thomas had said he will pull money from there even though he budgeted for salaried positions. Andrew Thomas replied there is a long-term temporary solution knowing it would get to this point some point in time. Councilwoman Frische then asked how Andrew Thomas would feel if Council had further discussions on the refund account and made it that it could not be an account that could be drawn from without Council's knowledge other than for refunds. She asked if it would affect the operations of that department. Service-Safety Director Schmelzer replied they would budget for both refunds and personnel. Councilwoman Frische then asked if this Resolution is to replenish the refund account. Service-Safety Director Schmelzer replied that it is. Andrew Thomas pulled it for staffing. Councilwoman Frische asked if it is to replenish. Service-Safety Director Schmelzer replied that Council is saying that cannot be done in order to plan for both scenarios. Funds have to be put in both locations. Councilwoman Frische noted that we shouldn't have to continue that. Either we are going to hire permanent or stay with temporaries, so we should have it in wages. Service-Safety Director Schmelzer replied only if permanent employees are hired. Councilwoman Frische then asked if the Andrew Thomas would be uncomfortable taking the extra steps if Council decides the refund account should be more tightly separated. Andrew Thomas replied that he would not be the one who would be uncomfortable. It would be the Administration and members of Council because he would budget more funds than what he needs to account for different scenarios. Councilwoman Frische asked if all the money in the refund account is for refunds to give payouts to employees. Andrew Thomas replied that is correct and that it will be replenished with this resolution.

Councilman Wobser asked Andrew Thomas for the amended dollar amount for this request. Andrew Thomas replied it is one hundred forty-one thousand five hundred dollars (\$141,500).

Councilman Harrington called for the question. City Auditor Staschiak noted that this requires a vote of membership to call the question, per the State Auditor.

Ayes: Harrington, Hellmann, Klein, Monday, Niemeyer, Shindledecker. Nays: Russel, Watson, Wobser, Frische. The motion to call the question did not pass.

Councilman Harrington asked the rest of Council if they have additional comments, to make those known and then Council will vote on this. He does not understand why Council did not vote in favor to move forward with this. He called for the question which only meant that comments would cease and the motion last given would be voted on.

Councilman Russel noted that he voted against the motion to call the question because there are two (2) dollar figures being discussed and when the motion to call the question was made, it was then to be voted on as given, but this did not give Councilman Monday a chance to amend his approval of motion if desired to change the amount. Councilman Monday asked Councilman Russel to explain what he just stated again. Councilman Russel explained that Councilman Monday made the motion to adopt this Resolution on the third reading. It would be up to Councilman Monday to move to amend the Resolution to change it to the one hundred forty-one thousand five hundred dollars (\$141,500) which is what he wanted to give a chance for that possibility to happen.

Councilman Monday moved to amend the Resolution to change the dollar amount from one hundred fifty-five thousand dollars (\$155,000) to now be one hundred forty-one thousand five hundred dollars (\$141,500). Councilman Russel seconded the motion.

Discussion:

Councilman Harrington asked for clarification if Council is going about this the proper way. Law Director Rasmussen summarized what has taken place. A motion was made to adopt the Resolution. A second to that motion was given, then discussion took place. Councilman Harrington called for the question where the City Auditor noted that there had to be a vote on the question which was a six (6) in favor, four (4) against. Now it is up for passage. Councilman Harrington moved to call the question which was supported six (6) to four (4). Councilwoman Frische asked if the motions that are on the floor could be re-read. She asked which dollar amount is being considered. Law Director Rasmussen replied it is one hundred fifty-five thousand dollars (\$155,000) which is the original number which is what the question was called on. Council voted in favor of that amount. Now a vote for that needs to take place or someone needs to make a motion to amend.

Councilwoman Frische moved to amend the Resolution to change the dollar amount from one hundred fifty-five thousand dollars (\$155,000) to now be one hundred forty-one thousand five hundred (\$141,500). Councilman Harrington seconded the motion. Ayes: Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische, Harrington. The Resolution is amended.

Councilman Harrington moved to adopt the Resolution as amended. Seconded by Councilman Klein. 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.

RESOLUTION NO. 030-2016 (LGIF application, City of Findlay GIS Enhancement Plan) **first reading** **adopted**
A RESOLUTION SUPPORTING THE SUBMITTAL OF A GRANT APPLICATION TO THE LOCAL GOVERNMENT INNOVATION FUND IN ORDER TO FUND A CITY OF FINDLAY GIS ENHANCEMENT PLAN, AND DECLARING AN EMERGENCY.

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

ORDINANCES

ORDINANCE NO. 2016-082 (Morger-Williams Street annexation rezone) **second reading**
AN ORDINANCE AMENDING CHAPTER 1100 ET SEQ OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO, KNOWN AS THE ZONING CODE BY ZONING THE FOLLOWING DESCRIBED PROPERTY AS R2 SINGLE FAMILY MEDIUM DENSITY (HEREINAFTER REFERRED TO AS THE MORGER-WILLIAMS STREET ANNEXATION).

Second reading of the Ordinance.

ORDINANCE NO. 2016-083 (Morger-Williams Street annexation accept and approve) **second reading**
AN ORDINANCE ACCEPTING AND APPROVING AN APPLICATION FOR ANNEXATION OF TERRITORY SITUATED IN THE TOWNSHIP OF MARION, COUNTY OF HANCOCK, STATE OF OHIO, AND SITUATED IN THE SOUTHWEST FOURTH (1/4) OF SECTION 20, T1N, R11E, A TRACT OF LAND CONSISTING OF 0.172 ACRES OF LAND, MORE OR LESS AND FURTHER DESCRIBED HEREIN, AND TO PETITION THE COUNTY COMMISSIONERS TO ALTER THE BOUNDARIES IN ACCORDANCE WITH SECTION 503.07 (HEREINAFTER REFERRED TO AS THE MORGER-WILLIAMS STREET ANNEXATION).

Second reading of the Ordinance.

Second reading of the Ordinance.

ORDINANCE NO. 2016-086 (OPWC application Areas B-4 & B-6 (Phase II) Sanitary Sewer Separation) **first reading** **adopted**
AN ORDINANCE AUTHORIZING THE MAYOR AND/OR SERVICE-SAFETY DIRECTOR OF THE CITY OF FINDLAY, OHIO TO EXECUTE THE NECESSARY GRANT APPLICATION(S) AND/OR AGREEMENT(S) TO RECEIVE GRANT FUNDS FROM THE OHIO PUBLIC WORKS COMMISSION (OPWC) FOR THE EAST FOULKE AVENUE, ALLEN AVENUE, MIDLAND AVENUE, GARFIELD AVENUE, AND GEORGE STREET (REFERRED TO AS B-4 AND B-6 AREAS) SEWER SEPARATIONS (PHASE II) PROJECT NO. 32556100, AND DECLARING AN EMERGENCY.

Councilman Hellmann moved to suspend the statutory rules and give the Ordinance its second and third readings. Councilman Russel seconded the motion. Ayes: Russel, Shindledecker, Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer. The Ordinance received its second and third readings. Councilman Russel moved to adopt the Ordinance, seconded by Councilman Watson. Ayes: Shindledecker, Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel. The Ordinance was declared adopted and is recorded in Ordinance volume VV, Page 2016-086 and is hereby made a part of the record.

ORDINANCE NO. 2016-087 (I-75 sanitary sewer relocation) **first reading** **adopted**
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Councilman Klein moved to suspend the statutory rules and give the Ordinance its second and third readings. Councilwoman Frische seconded the motion. Ayes: Watson, Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker. The Ordinance received its second and third readings. Councilman Klein moved to adopt the Ordinance, seconded by Councilman Shindledecker. Ayes: Wobser, Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson. The Ordinance was declared adopted and is recorded in Ordinance volume VV, Page 2016-087 and is hereby made a part of the record.

ORDINANCE NO. 2016-088 (CR 212/CR 236 widening) **first reading** **adopted**
AN ORDINANCE APPROPRIATING FUNDS AND DECLARING AN EMERGENCY.

Councilman Russel moved to suspend the statutory rules and give the Ordinance its second and third readings. Councilman Wobser seconded the motion. Ayes: Frische, Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser. The Ordinance received its second and third readings. Councilman Russel moved to adopt the Ordinance, seconded by Councilwoman Frische. Ayes: Harrington, Hellmann, Klein, Monday, Niemeyer, Russel, Shindledecker, Watson, Wobser, Frische. The Ordinance was declared adopted and is recorded in Ordinance volume VV, Page 2016-088 and is hereby made a part of the record.

ORDINANCE NO. 2016-089 (amendment to salary ordinance) **first reading**
AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CODIFIED ORDINANCE NO. 2016-071, AS AMENDED, OF THE CITY OF FINDLAY, OHIO KNOWN AS THE SALARY ORDINANCE, AND DECLARING AN EMERGENCY.

First reading of the Ordinance.

ORDINANCE NO. 2016-090 (prohibit marijuana) **first reading**
AN ORDINANCE ENACTING SECTION 513.15 OF THE CITY OF FINDLAY CODIFIED ORDINANCES TO PROHIBIT THE CULTIVATION, PROCESSING AND RETAIL DISPENSING OF MEDICAL MARIJUANA AND PROHIBITING THE CULTIVATION, PROCESSING AND RETAIL DISPENSING OF MEDICAL MARIJUANA IN ALL ZONING DISTRICTS IN THE CITY OF FINDLAY, AND DECLARING AN EMERGENCY.

Discussion:

Councilman Russel asked what would happen if a dispensary is established with a day care center, church, or one of the businesses that would be part of the five hundred foot (500') distance rule is next door to it. He asked if the established business would have to vacate. Law Director Rasmussen replied that is one of the questions that we do not know yet and has to be answered by the state. It says that you cannot place it or relocate it there, but once it is place, it will be a difficult argument. Councilman Russel then asked what is difficult. Would it will be difficult to make the established business move. Law Director Rasmussen replied that is correct because of the restriction. We did not cause the restriction, they moved to it. Until the state does all their work in the next year or two putting it all together, we won't know because it gives Council the ability to ban to increase the distance without violating it. If someone moves in next door, he does not believe they would have the ability to make the dispensary move.

Councilman Russel has been unable to check to see if there were any responses to the email he sent late today to the Service-Safety Director and to the Hancock Regional Planning Commission (HRPC) Director asking about the possibility of generating a map. Service-Safety Director Schmelzer replied he did respond to the email saying that a map could not be put together properly in time for this meeting. As zoning discussions continue, the map will be put together. Councilman Russel asked if that will be difficult to do. Service-Safety Director Schmelzer replied that there are people with plenty of capability to generate it, but that they just need more than a couple of hours to do so.

Councilman Klein noted that HB 523 has got so many moving parts to it. It seems that this ordinance is a knee-jerk reaction. We are probably at a minimum of a year or two away from having any finalized regulations coming from the state. Communities all over the state are establishing moratoriums. A very small number are placing bans. He is perplexed as to why we want to prohibit and ban rather than just establish a moratorium for up to a year until it is known what rules we will be playing by. Law Director Rasmussen replied that this Ordinance is a moratorium. It is what most cities are adopting. A moratorium temporarily bans it. It delays an activity. Councilman Klein asked if a moratorium has a deadline on it. Law Director Rasmussen replied it does. Council might want to consider a deadline, but he is unsure how long to make it effective. Council has the ability to amend, change, or do away totally with the moratorium at any time. If a moratorium is not put on it now, it will be unfair to Council and those who want to entertain a business. If Council does not pass the moratorium and the state law goes into effect, someone could make a large financial contribution or investment in property for this business in the future. Councilman Klein replied that the way this is written right now, he feels that whomever does that deserves whatever they get. They have to do their due diligence before purchasing property. We are unsure if there is even going to be a dispensary in Findlay, Ohio. Law Director Rasmussen replied that is true, but it does not matter because they will be grandfathered because they have already started the process. There is some confusion that the ordinance does not say it is a moratorium, but that is exactly what it is which is what we would be banning until we find out what exactly it is we are talking about. Mayor Mihalik added that we are just keeping the door closed for the time being because once it is open, it is open and will be more difficult to close it. If it is kept closed and the state goes through their process and gives us more clarity and direction on enforcement, what does that look like in terms of regulations. Who is going to be responsible for that. Is it going to be something that will fall on our shoulders. We do not know the answers to these questions yet. We should allow the process to play out because there is a desire by some to make this a possibility. Anytime there is a new use, we will want to have discussions as a community in total over time once we know what is going to come down from the State. Councilman Klein's concern is that most of the moratoriums he looked at use the word moratorium in their ordinance, but ours does not. Ours only uses prohibit and ban. Law Director Rasmussen replied that it will be a violation if the activity is done because there is a moratorium on it. Other cities such as Lancaster and Rocky Rivers also talk about bans in their punishments in their criminal prohibition. This is nothing more than a ban on any of the conduct authorized under the State statute until they make their decisions. We do not know what a dispensary looks like. We do not know if it is the green site or if it is a pharmacy. Those are the issues that they are going to work through. Once Council knows what they are, they will make a decision based on those facts.

Councilman Shindledecker attended the two-part symposium that the Alliance held last week. One part was on how this legislation would affect cities, the other part was how it would affect businesses. There are so many questions that are yet to be answered on the City's side with advertising. He asked how they can advertise. Can they use billboards, radio, television, or newspapers. He asked if they can advertise right next door to a school or college campus. The issue with taxes has not been resolved. The issue with our caretakers (i.e. bedridden person who uses medical marijuana) physically carry the marijuana. There are a number of questions in that area. Also questions on what is required of businesses (i.e. liability, insurance, etc.). It is very prudent to pass this now and enact the moratorium, then once the State figures out what they are doing, we can follow suite. Last November on Issue 3, seventy-two and one half percent (72.5%) of the voters in Hancock County voted no with thirty (30) of the thirty-three (33) precincts in the City of Findlay voting no for the legalization of marijuana, not medical marijuana. He believes the opinions of this county is that there are a lot of questions that need to be answered before we go ahead with this.

Councilman Watson's main concern is that it is as if we are rushing to ban it. He feels as though Council has not had enough time to for public input. He has received many calls about this issue. This issue by itself needs consideration and perhaps a Committee of the Whole meeting. While he understands the time crunch on the implementation and that there may have been issues that could not be foreseen, there are a lot of questions that need answered and he does not want to act too quickly to completely ban medical marijuana from Findlay before having all the information available.

Councilman Wobser asked if Council bans this, can someone go to another city and purchase it and bring it to Findlay. Mayor Mihalik replied that this for the cultivation and formulation and eventual distribution. Councilman Wobser then asked if all of those will be set by the State. Mayor Mihalik replied that is correct. Councilman Wobser then asked if local government will have any control of it once the State mandates it except for where it goes inside the municipality which is the zoning portion of it. Law Director Rasmussen replied that we have the right to ban it. Councilman Wobser then asked if we ban it, does that just force it outside the City limits. Law Director Rasmussen replied it could. This isn't to ban it. It is to prohibit it until we have the information from the State to make that decision. Councilman Wobser added that more than likely, this issue will just be prolonged to another Council body because most likely, it will take a year or more where another Council body will be here. They will have to lift moratorium at that point in time. It will have to be voted on to take the language out which will bring up the whole issue again. The Mayor requested this be passed tonight because State law goes into effect on the 8th. It is the fear that someone will buy property on the 9th making the City liable with options limited. Law Director Rasmussen replied that the City will not be liable if we ban it. Individuals will take the initiative to do what they want to do and then argue that the law said they could do it and they have done it and are waiting for the rules to come down from the State. We may lose some of the control and at this point, we do not know what the rules and regulations are. Mayor Mihalik added that for all we know, individuals could have already acquired property without knowing what their intended uses are. Councilman Wobser asked if passing this Ordinance tonight really makes a difference. Service-Safety Director Schmelzer replied that it does if we do it before the State's decision goes into effect. Councilman Wobser asked how this would stop someone if they already purchased property with the intent for medical marijuana. Service-Safety Director replied it is not legal right now, so it would be an illegal use, so their intent does not matter until after its approved by the State. Councilman Wobser asked what the penalty is for a misdemeanor or first degree. Law Director Rasmussen replied up to one thousand dollars (\$1,000) fine and six (6) months imprisonment. Councilman Wobser asked if that is for a first time offense. Law Director Rasmussen replied that would be the maximum punishment. Each day violated would be considered a separate offense. If Council wants to control medical marijuana until the State hands down their rules, then pass this Ordinance tonight. If Council does not care to have control, then don't pass it.

Councilman Shindledecker asked if the dispensaries will have to pay sales tax since they do not pay taxes on medical prescriptions. He asked if this would this generate tax revenue for the City.

Councilman Harrington is hearing comments from the audience and noted that they had a chance to make their comments prior to now, so he asked them to keep their comments for another time. The key here is the term medical. Some are equating this to legalization of marijuana in the state of Ohio, but it is only legalizing it to be dispensed as a medical need prescribed by physicians. The State has decided that it is time that medical marijuana be allowed for those like the oral communications earlier tonight who's sister has cancer, and for his uncle who died of bone cancer, or someone after chemotherapy that is looking to take the edge off. He appreciates the Mayor's efforts to regulate this, but the State, Governor, and/or Legislators will have to take a look at this issue, determine the gray areas, and have to come to an agreement to pass something at the State level. For us at the local level, to try to circumvent that is a mistake, therefore, he is not in favor of this ordinance.

Councilwoman Frische asked how long the Mayor has had discussions leading up to writing this Ordinance. She asked if pieces of different ones were put together to create this, and are there things we can change to change the pros and cons to pass this tonight. It's not that she doesn't support what the Mayor is doing. It is with good intention, but what is lost is the communication, especially since Council is under a microscope right now because the 8th is in two (2) days. Mayor Mihalik replied that this has been on the radar, but it was not intentional that it is before Council so close to the State's deadline. Anyone of us could have brought legislation on this issue to the table. We all knew it was coming down the pipeline, but a lot of research needed to be done to see what other communities are doing on it and the 8th deadline is coming quickly. What we are discussing right now is the pros and cons of medicinal marijuana and what everyone's stance is on it. We are talking about being responsible on where we will allow operations in City limits. Anytime a new use is introduced to the zoning code, which is what this will end up being, we have to be diligent about where that is because some have invested in property, whether it is in their own personal home or businesses, it is their time and effort into property that they own. The zoning code is there to provide some level of protection to those who have property. The timing of the issue snuck up on her. She has been talking with Max Filby from The Courier about this for the last few months. Law Director Rasmussen added that this was passed less than ninety (90) days ago, so in that time, the Ohio Municipal Attorney's Association (OMAA) have been sending emails to cities proposing legislation with other places having differences of opinion. Some are doing it by zoning, some by prohibition of enacting criminal penalties, and some doing both. It is not something that just happened. Councilwoman Frische finds it frustrating that conversations with the newspaper have taken place, but not with Councilmembers. Councilmembers need to be on the same page as the Administration so that they are not in this position again. Mayor Mihalik replied that Max Filby meets with her weekly and asks her about a lot of different topics. Councilwoman Frische or any Councilmember could have asked Mayor Mihalik about this issue. Councilwoman Frische replied that she is not attacking the Mayor. She is just saying the communication is not there. If this was being worked on, Councilmembers should have been aware of it as they cannot read minds. She noted that the second Ordinance (2016-091) is for zoning and that it cannot be passed on an emergency. She then asked if the first Ordinance (2016-090) on this can be removed later once the zoning change is passed and if it would protect us. Law Director Rasmussen replied they are two (2) separate things. The one that Council can pass tonight is Ordinance No. 2016-090 that deals with the criminal penalties and the fact that it is not legal in the City of Findlay during the period of the moratorium. The zoning portion (Ordinance No. 2016-091) deals with placement. Council may not allow cultivation and processing, but the dispensaries will be through a pharmacy or pharmaceutical place in our town and we do not have a problem with that. It is not a legalization of marijuana. It's for medical marijuana. We do not know what it looks like. The entire text of what the State is proposing is very lengthy and hard to understand. He has read it, but still does not know what exactly it says. Councilwoman Frische added that there is a loop-hole for municipalities to do something on their own. Law Director Rasmussen replied that something is specifically written into the law that states we can ban it totally and make it criminal and/or zone against. If Council wants to maintain total control over this until it is known what exactly you will be voting on, then this Ordinance needs to be passed tonight. If not, we will deal with the circumstances later. If someone is grandfathered in, so be it. Councilwoman Frische asked if all that would be jeopardized is the people that have already owned property. Law Director Rasmussen replied no. It would be an issue for those who go and say we did not pass this and it is now state law so they are going to go make an investment or go apply for a permit and grow some privately.

Councilman Russel asked why there needs to be two (2) separate Ordinances for this. Law Director Rasmussen replied that the zoning code (2016-091) only deals with zoning. Councilman Russel then asked if it would zone it away from anywhere in Findlay. Law Director Rasmussen replied that is correct but it would not be a ban. If someone did make that investment, they will argue that the law went into effect, that they want to do this and they believe that they were here first, so they are going to do it.

Councilwoman Frische asked if we wait until the next Council meeting or until a Committee of the Whole meeting is held, would it be a huge jeopardizer in the Administration's eyes. Law Director Rasmussen replied that he cannot predict what someone is or isn't going to do. Everyone has been reading the same law the last ninety (90) days and may be trying to figure out what is needed if they are interested in pursuing it.

Councilman Russel asked Matt Cordonnier from the audience what is meant by public playground/public park as stated in his letter for Ordinance No. 2016-091. He asked if Matt Cordonnier if he foresees the need to change the current zoning code to specifically define those terms and also define where the five hundred foot (500') ban applies to. Matt Cordonnier from the audience replied that by drawing the map for the five hundred foot (500') radius would include many of the public parks in the City of Findlay, so he does not feel they would have to be defined. It would be a good idea to define what is considered a public playground/park (i.e. church). Councilman Russel asked if a state statute says five hundred feet (500') from a public playground, would they have to define what a public playground is. We already have the zoning classification for a public park, but would need to be defined for a public playground. Would a playground at a church on private property be considered a public playground even though it is used by everyone in the neighborhood. Matt Cordonnier replied he does not have a definition for it. It would just be an interpretation.

Councilman Klein asked if the State Pharmacy Commission will be the one who will establish who gets the license and who meets the requirements. Law Director Rasmussen replied they will along with the Ohio Department of Commerce. Councilman Klein then asked if it will be set up and based on population or what. Not every city in the state is going to end up with a dispensary. Law Director Rasmussen replied he is unsure as that is one of the things we do not know yet. He is unsure if they will come up with a total number in the State, if you have to have a certain population level but that City says no, can a City close by then have dispensary. Is it going to be in districts territory, etc. There are a lot of unanswered questions right now. Mayor Mihalik added that she had a telephone conversation today with someone who thought we are just banning the use of medical marijuana which is not what she is proposing. She is proposing to prohibit the cultivation and dispensing of medical marijuana until the State gives their ruling. The gentleman she was talking with was irritated because he thought we are banning the use. The discussion then went to the number of dispensaries that will be allowed as he is trying to start a cultivation operation and has hired lobbyists to work on the business angle of it. There is a financial advantage to this. Councilman Klein noted that anyone that is buying property to go into this business is being very speculative. Service-Safety Director Schmelzer asked Council what questions they think they will have answered two (2) weeks from now and if it is really relevant that Council does not want to allow dispensaries until it is known what they will look like, which is really the question. It does not matter to him if Council does not want to allow dispensaries until it is known what they will look like, whether the moratorium is passed tonight or when, because no additional information from the State will be obtained on what they look like. He would like to move through the zoning process to determine what the radius needs to look like for our community and determine what districts we want them to be in adjacent to what uses. When we decide what a public park is, Council will then amend the Zoning Code and lift the moratorium. Until Council knows what the rules are, he does not feel it is prudent to permit the use. Councilman Klein replied that this Council is probably not going to make those changes. Service-Safety Director Schmelzer replied that it is all a matter of process. Every Council will evaluate facts and make a decision as to whether the moratorium stands or not. Council should be able to better judge based on facts that are known and whether or not to lift the moratorium. He suspects it will be lifted once it is known what the rules look like. There will be some logic to what the State has done and can then match up the zoning code to their rules and lift the moratorium.

Councilman Wobser feels the State has made this very difficult to deal with at this point in time and it is made worse by the fact that Council is dealing with this on a tight time crunch. Given all the uncertainty, he understands the argument for this. He moved to suspend the statutory rules and give the Ordinance its second and third readings. Councilman Hellmann seconded the motion.

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

The motion is defeated. The Ordinance received its first reading.

ORDINANCE NO. 2016-091 (change zoning code - prohibit marijuana)

first reading

AN ORDINANCE AMENDING SECTION 1101.08 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY.

First reading of the Ordinance.

UNFINISHED BUSINESS:

OLD BUSINESS:

Councilman Monday asked how is it possible that a thirty-five (35) minute conversation on an ordinance that never had a motion should have taken place. He asked if a motion should have been given first before discussion. He asked if an ordinance can be discussed before it is put on the floor. Law Director Rasmussen replied that Council has always done the debate after the question, so Councilman Monday is correct that a motion is to be made before discussion is to take place. There can be an informal consideration of a question or motion, but typically motions are given before discussion takes place. Councilman Monday asked if it is permissible in the future. Law Director Rasmussen replied they are Council's rules, not his. Councilman Monday corrected Law Director Rasmussen that they are Robert's Rules. He asked the Law Director if according to Robert's Rules, if what was done with Ordinance No. 2016-090 is permissible and can be done in the future. Law Director Rasmussen replied it can be if an informal consideration of a question to raise some debate is given. He does not suggest Council do so. Councilman Russel asked if Council is allowed to ask questions of the Administration about legislation that are before Council. Law Director Rasmussen replied yes they can. Councilman Russel then asked if Council is restricted from having conversations amongst Councilmembers as to whether or not something should pass or not be passed. Law Director Rasmussen replied that is correct.

Councilman Shindledecker noted that on September 15, 2015 Council approved a committee recommendation to establish a one-way traffic pattern and reverse angle parking on Crawford Street. A part of that recommendation, which was approved by Council, was that if this would remain in effect until October 15, 2016 and would then go away unless the Traffic Commission and Council would support the continuance. He suspects it would continue, but would like to have the Traffic Commission discuss it at their next meeting which is one day before the final City Council meeting for September. Referred to Traffic Commission.

NEW BUSINESS:

Councilman Monday: **APPROPRIATIONS COMMITTEE** meeting on September 13, 2016 at 4:00pm in the third floor conference room beside the Mayor's Office (CR1):

agenda: Raise the Bar (RTB) Ordinance No. 2016-084

Councilman Russel: **PLANNING & ZONING COMMITTEE** meeting on September 8, 2016 at 4:00pm in the first floor Council Office (CO).

agenda: 1. Morger (Williams St) annexation (Ordinance No. 2016-082)
2. 2411 N Main St rezone
3. 1403 S Blanchard St rezone

President J. Slough adjourned Council at 9:09pm.


CLERK OF COUNCIL


PRESIDENT OF COUNCIL